



United States

FEDERAL DRUG FORFEITURE ACTIVITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

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FEDERAL DRUG FORFEITURE ACTIVITIES

MONDAY, APRIL 24, 1989

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, in room 422 of the the Broward County Commission hearing room, 115 S. Andrew Ave., Fort Lauderdale, FL, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives William J. Hughes, Lawrence J. Smith, and Larkin I. Smith.

Also present: Edward O'Connell, counsel, and Paul McNulty, minority counsel.

OPENING STATEMENT OF CHAIRMAN HUGHES

Mr. HUGHES. The Subcommittee on Crime will come to order.

Good morning and welcome to the Subcommittee on Crime's hearing on forfeiture and forfeiture-related issues.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography or by other similar methods.

In accordance with committee rule 5(a) permission will be granted unless there is objection.

Is there objection?

[No response.]

Mr. HUGHES. Hearing none, such coverage is permitted.

First I want to thank the Broward County Commission for permitting us to use this beautiful commission chamber.

This is not the first time we've visited Broward County, and they've always extended to us tremendous courtesies. And we appreciate that.

I also want to thank Commander Jim Underwood and the Coast Guard for providing for our subcommittee both air transportation and ground transportation for our trip to Florida. We appreciate that.

Today we are pursuing an investigation we initiated here in Fort Lauderdale in October 1983. The central question in that inquiry is how we could develop an effective attack on the economic base of drug trafficking.

At that hearing and several followup hearings, we uncovered significant problems and concerns about the Federal forfeiture process.

Since that time, we have passed the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Acts of 1986 and 1988, each of which contained provisions to alleviate some of the problems we discovered.

With the passage of these laws, the Federal Government was given much greater power to forfeit the fruits of drug-related crime. It is our intention today to ascertain how well those laws are being implemented.

In this process we are focusing on one aspect of our national problem of drug abuse. We will be dealing with the "fruits of poisoned trees;" that is, the seized assets of drug traffickers.

The statistics in this area are absolutely astounding.

For instance, in fiscal year 1988 the Drug Enforcement Administration alone seized assets totaling \$655 million, an increase of \$150 million over the prior year.

Customs is next, and their seizures are up significantly into the \$300 million range, and they contemplate another significant increase this year.

The DEA contemplates that for the first time this calendar year, we will seize in excess of a billion dollars.

The General Accounting Office later today will state that we are now dealing with a billion dollar operation in combined seized assets which is an increase of over 300 percent over inventories in 1979, which were \$33 million.

In the Southern District of Florida alone, the Miami Division of DEA seized over \$173 million in assets in 1988 alone, an increase of about \$41 million from the prior year.

And yet we really don't see any lessening in drug trafficking. Worse, in the case of cocaine, our current national drug of choice, use is up, inventories are high, prices are down, and the cocaine sold on the streets has never been purer.

This is another indication that our overall problem has leaped in exponential terms and probably is still growing. I do believe, however, that on the supply side, at least, these new tools of forfeiture will eventually make a dent in drug trafficking.

If we could make some comparable strides on the demand side and our overall attitudes toward drug use, we might be able to make some meaningful changes in this cancer on our society.

In the forfeiture area, we will be discussing many issues today, but two stand out.

The first is the equitable sharing process with State and local governments.

As the coauthor of this provision that allows the Federal Government to share forfeited assets with State and local law enforcement, I believe that this process is essential to any substantial anti-drug trafficking process.

In fact, State and local law enforcement handle over 90 percent of our criminal activity in this country, and I believe that bolstering their efforts is essential. We in the Federal Government, however, must always be cautious not to tread on State and local priorities in this area.

The second specific area of concern is the efficiency with which we handle seized assets. The seizures now are in the billions, but in some respects we process the assets as if they're still a mom and

pop operation. We are doing better, but we must do much, much better than we have done.

I look forward to the testimony of the witnesses and the opportunity to work with government at all levels to make our drug strategy more effective.

The forfeiture bill probably is the most dramatic piece of legislation that the Congress has provided to the law enforcement community. I'm very proud of the role that this subcommittee has played in this area, particularly members such as Larry Smith.

We were fortunate to have Larry early on because he worked with forfeiture and the forfeiture issues when he was in the State legislature.

We're also very pleased to have with us now as a new member of our subcommittee and a new Member of Congress—Larkin Smith of Mississippi, who was a police chief for many, many years and county sheriff for the last, I guess, 6 years or so—

Mr. SMITH of Mississippi. Five years.

Mr. HUGHES [continuing]. Five years or thereabouts. And I know that he will continue to make contributions to the subcommittee.

Larkin, you are recognized for any comments you would like to make at this time.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

Does this turn on somewhere?

Mr. HUGHES. Yes. Just push it on.

Mr. SMITH of Mississippi. Just push it on. There it is, OK.

Thank you, Mr. Chairman.

I'm very pleased to be in Fort Lauderdale today and to have the opportunity to renew old friendships and professional relationships with the Coast Guard, the Customs Service, DEA, the FBI and the south Florida law enforcement community.

As the former sheriff of Harrison County, MS, I have had the opportunity to work closely with this law enforcement community, and they are topnotch law enforcement.

Their post in south Florida is the front line in the war against drugs. The rest of the country is indebted to Florida for their perseverance and commitment in intercepting the flow of illegal drugs across our borders.

I'm here today because I'm interested in seeing what the Congress can do to make your job easier, safer and cost effective.

By law, the Congress must reduce the growth in Federal spending but at the same time we must accelerate our antidrug offensive if we are ever to rid the Nation of the drug scourge.

Asset forfeiture certainly was intended in some areas to fill that funding lag, particularly with the local law enforcement agencies.

Asset forfeiture is the process by which property is confiscated by Federal, State or local authorities because of their use in criminal drug activities. The assets can be liquidated or, in some cases, used by the enforcement agencies.

Now, questions are being raised in regard to the efficiency of asset forfeiture because of the time involved. Often it takes Federal, State, and local agencies years to see the fruits of their labor.

The reasons for this are many.

First, judicial forfeiture proceedings are at the mercy of the courts. Assets cannot be liquidated and redistributed until a court

has ruled on the case, which, depending on geographical location and the load of the court, can range from a few months to a few years.

During that time boats, planes, cars and real estate, sitting in yards and warehouses, are deteriorating. By the time clearance has been obtained to sell them, their value has been depreciated.

So the Government and, most important, local law enforcement agencies are not getting top dollar to plow back into their drug enforcement programs.

We must find a way to expedite this process.

I look forward to hearing the input of our witnesses today toward that end.

Thank you very much, Mr. Chairman.

Mr. HUGHES. Thank you.

Coming from Florida, Larry Smith has been a valued member of this subcommittee since I started as chairman in 1981, and we appreciate his many contributions.

Larry, we also appreciate the work of your staff in setting up this hearing in particular. I know they worked very hard.

Mr. SMITH of Florida. Thank you, Mr. Chairman.

I am happy to welcome you here to my county, Broward County, on behalf of the people here and on behalf of the law enforcement community.

We are very grateful that you've chosen to come back here. We've had—this is the third hearing—one in the original commission chambers back in 1983 and then one in the Hollywood City Commission chambers 2 or 3 years ago.

And interestingly enough, much of what we will be dealing with today was developed as a result of those previous hearings and what we found in the way of deficiencies in the program and, unfortunately, some significant items, one of which we will deal with today.

And that is the adoptive forfeiture problems, which we documented right in the city hall of Hollywood about the way some law enforcement agencies in other parts of the country were circumventing their State laws through the use of Federal adoptive forfeitures.

So it is very good to have you here. It's good to have the subcommittee come back. And I think people ought to be aware that the subcommittee on Friday and Saturday did some direct investigation and site views of different parts of the problem, including boats and planes and the seized assets, where they're sitting and what is happening with them, so that we get a firsthand idea on the items on which we have to work and about the problems that the Customs people, the Marshals Service, the Coast Guard and others have in dealing with these seized assets.

I also want to thank you for the work that you've done over the years on this issue. This has become an important, extremely important, tool for law enforcement.

Last year over a billion dollars was seized in assets. An enormous amount has been remitted to the Federal Treasury and law enforcement agencies for their own use, and what is mainly important to many of the folks here at home is that much of what has been done on a cooperative basis between State, local, and Federal

agencies has been rewarded by virtue of the sharing of seized assets ultimately and some of the value of those assets, so that local and State law enforcement agencies do get reimbursed for much of what they do in cooperation with Federal agencies. They are not in a position where there's a disincentive, but, as a matter of fact, have an incentive, not only because of their law enforcement capability and because of the job they're mandated to do, but because they know that they're not going to compromise any of their own capabilities.

So that's very important and especially in an area like south Florida.

But as you indicated, we do have problems in this area. As good as it has gotten, we are still not where we'd like to be.

We ourselves saw assets that were sitting in the boat yard, some of them 2 and 3 years old, if not longer.

Last year, according to the GAO and others—and I'm sure we're going to get that testimony today—the United States only received about 7 percent of the assessed valuation on the dollar of all of the seized real estate assets that were taken in.

And that is a figure that we have to examine and try to ascertain why in fact that happens to us.

There is in some cases inordinate amounts of money being spent for storage and maintenance and warehousing and other things before the items are sold or otherwise remitted or disposed of.

So there's an awful lot to deal with here. There's an awful lot of money, and there's an awful lot of capability.

We want to congratulate you once again for doing a good job in not only coming here but in also having the desire to watch over this program, which is so important.

I want to just say that I appreciate your comments about the State of Florida and myself. We wrote the original asset forfeiture law back in the late seventies and rewrote it when I was the chairman of the Criminal Justice Committee in the State legislature.

We found that it works, and we found that what we have taken out of the State law and put into the Federal law has worked very well.

So we appreciate your being here. The people of Broward County welcome you. The commissioners are happy that you're here.

And I look forward to a very good hearing.

Mr. HUGHES. Thank you, Larry.

I wonder if our first panel would come forward.

That consists of Commissioner James T. Moore, Secretary Joseph W. Dean, and Mr. Ralph Page.

Our first panel consists of State and local enforcement agencies and a representative from the private sector, which I believe are crucial elements in the antidrug abuse campaign.

Commissioner James T. "Tim" Moore heads up the Florida Department of Law Enforcement.

Mr. Moore began his career with the Florida Department of Law Enforcement [FDLE] in 1973, and except for a year in 1979, when he completed a graduate program in public administration at Georgia State University, he has continued with FDLE through a number of progressively higher professional and managerial ranks until the present time.

This included director of the division of crime laboratories and staff services and deputy commissioner of FDLE. On May 10, 1988, he was appointed commissioner by Governor Martinez.

Our next panelist, Joseph W. Dean, is secretary of the Department of Crime Control and Public Safety of North Carolina.

Secretary Dean is a graduate of the Citadel and Wake Forest Law School and is a decorated Vietnam War veteran.

He served as an assistant U.S. attorney in the Eastern District of North Carolina from 1971 to 1977 and subsequently practiced law in the firm of Dean & Dean until he was appointed secretary by Gov. James Martin in January 1985.

Mr. Ralph Page, our last member of the panel, is a graduate of Providence College and also has received an M.A. degree from the University of Miami.

Mr. Page served with the Metro Dade Police Department from 1967 to 1978 and has been a part-time police officer since that time, as well as an investigative reporter. He presently is on the board of directors and is a TV spokesman for the Crime Stoppers of Broward County.

We welcome you here today.

We have each of your statements, which we've read, and without objection they will be made a part of the record. We hope that you can summarize for us.

Why don't we begin with you, first of all, Commissioner Moore. Welcome.

STATEMENT OF JAMES T. MOORE, COMMISSIONER, FLORIDA DEPARTMENT OF LAW ENFORCEMENT

Mr. MOORE. Thank you, Mr. Chairman.

It's good to be down here today.

And I would like to echo, before I get into my statement for the record here, the fine leadership of Congressman Smith back when he was in the State house.

Indeed we did write, under his leadership, one of the first forfeiture laws in the country. And it's still working real well, as we state.

It's a pleasure for me to be here today, and I understand the need for brevity. I'd like to read from this brief statement and then be available for any kind of followup questions that you might have.

Mr. HUGHES. OK.

Mr. MOORE. First of all, it's important to note how participation in the Federal Forfeiture Asset Sharing Program has increased throughout the State of Florida, particularly within the department of law enforcement.

The level of revenue received by FDLE through the asset sharing programs has increased over 1,000 percent between fiscal 1987 and fiscal 1988, with fiscal 1987 realizing \$176,000 and fiscal 1988 realizing over \$2.1 million.

As you can see, the increase is dramatic and the dollar value of the proceeds received by the department of law enforcement is indeed significant.

Revenue from this program is placed into the forfeiture and investigative support trust fund that the Florida Legislature established within the department.

All revenues generated as a result of State or Federal criminal or civil forfeitures are deposited into this fund and are used exclusively for law enforcement purposes.

Seizing assets from criminals is not only a good way to fight crime generally, but by then using the assets for additional law enforcement activities, it also seems to hurt the criminal element twice.

The FDLE, since the inception of this program in 1985, has used its portion of the shared assets to assist in funding of long-term, protracted investigations and to support the cost related to these extremely expensive investigations.

This additional funding source has increased our ability to vigorously pursue criminals, even though there is a large price tag on the majority of these operations.

Funds received through the asset sharing program have also increased dramatically among most local law enforcement agencies in the State of Florida.

Data for the State of Florida, which was provided to us by the U.S. Marshals Service, shows that from fiscal 1986 to fiscal 1988 there was a 2,000-percent increase in cash and sale proceeds from asset sharing.

In fiscal 1986 Florida received \$167,000; in 1987 our share was \$892,000; and in 1988 we jumped to \$3.6 million.

To put that into perspective, gentlemen, as an aside, that represents more than half of Florida's total share of the antidrug abuse money of 1986. So it's a significant amount of money that we realize from this program.

I want to emphasize the positive effect this infusion of money has had on our State's enforcement efforts. The assets shared in 1988 were equal to 5 percent of my department's total cost to provide direct support services to Florida's local law enforcement community.

As this shows, the Federal asset sharing program is enabling Florida law enforcement agencies to provide the citizens of the State more effective protection and services without increasing the cost to the taxpayers.

The increase in revenue experienced by Florida can be partially attributed to the U.S. attorneys, to the DEA, to the FBI, to Customs, to Coast Guard and to others who are assigned to our State.

They have been extremely helpful and cooperative in sharing of assets and in educating State and local law enforcement agencies about how the program operates and the correct procedures to facilitate applications.

I'd like to digress again for a moment and take this opportunity to thank the U.S. attorneys in the State of Florida—and I saw Dexter, I walked in with him, for the southern district—the DEA people, Tom Cash.

Relationships have never been better in the State of Florida than they are now between law enforcement at the State and local levels and the Federal Drug Enforcement Administration, not only in this area but in all other areas of mutual concern, I might add.

To provide this subcommittee with accurate information about how other States and local law enforcement agencies feel about this asset sharing program, we conducted an informal survey of 16 local law enforcement agencies in Florida and 6 other State law enforcement agencies from around the United States through NSDEA and other affiliations.

I won't read those contracts, Mr. Chairman. As you mentioned, they're in the record already.

But in general all agencies surveyed, both large and small, had a very positive attitude toward the program and stated that they had benefited either from additional physical assets or additional moneys.

Many cited specific examples of how the additional revenues had increased their ability to purchase much needed equipment and to conduct necessary investigations.

The asset sharing program has resulted in an additional benefit that most agencies mentioned during the survey; that is, the benefit of a positive working relationship that's been developed and reinforced between Federal, State and local law enforcement agencies.

I don't think we can overstate the importance of that benefit, Mr. Chairman.

This is a benefit that we cannot have a dollar value on, for, as we all know, the only way to combat today's highly sophisticated and mobile criminal is to have cooperation throughout the entire law enforcement community.

Even though all of the agencies had positive things to say, a significant number also had consistent areas, within the program, that they felt could be improved upon.

The first area was the speed of the process, from the time of the seizure to distribution of the assets. Many relayed information of applications taking 1 to 1½ years before they received their distributions.

It's worth noting that many agencies also acknowledged that the processing time has improved over the past several years, but they would still like to see additional improvements.

Tied to this complaint is the frustration of agencies attempting to track the status of their application once it leaves their home State. While being very complimentary of the service provided by the Federal agencies within their States, many were of the opinion that once the application arrives in Washington it's next to impossible to track its status.

I think that's a significant point for us to remember, Mr. Chairman.

I think most State and local agencies understand that this is a very expansive program and that it's experiencing unanticipated growth.

However, for most agencies, the assets being returned from the Federal level are extremely important for operating budgets, and unnecessary delays can impede the effectiveness of the agencies involved.

Considering the size of the asset sharing program and the demonstrated willingness to be responsive to State and local agencies, I

think individuals involved with it should be commended for their efforts overall.

The problems we experienced several years ago have for the most part been resolved and, with the exception of the problems just noted, the program has been very successful.

Law enforcement agencies at both the State and local levels throughout the United States have benefited from the present and relatively unrestricted system that allows them to jointly seize property and receive the proceeds from the sale of the property.

One change to the Anti-Drug Abuse Act of 1988 may soon end such transfers in jurisdictions that do not have forfeiture provisions or mechanisms in place allowing law enforcement agencies to benefit from forfeiture actions.

It has been suggested that the change was written in response to complaints from some States where the unrestricted transfer resulted in law enforcement agencies receiving assets rather than the general revenues of the States involved.

If this is in fact the motivation for section 6077 of this act, it would seem more appropriate for the States where it has become a problem to address this in their local legislatures rather than through the general prohibition in Federal legislation.

Several of the States contacted during our informal survey expressed concern about this issue and the impact it will have on the agency's effectiveness in combating crime.

The State of Florida has some of the best forfeiture legislation in the country, and yet we will also be affected.

Florida law permits the seizure of real property only in certain limited situations. Currently Florida law enforcement agencies are using the Federal transfer procedure to enable them to benefit from real estate seizures.

If section 6077 is not repealed, it could have an adverse effect on the Federal Government's ability to share assets from forfeited real estate in Florida, at a time when drug-related activity is at an all time high, as you know.

The present cooperative approach at the Federal, State and local levels in investigating drug offenses and in funding those investigative efforts has helped, and should be allowed to continue to help, the coordinated effort in combating drugs and drug trafficking.

I would urge you to support the repeal of section 6077 in the Anti-Drug Abuse Act of 1988.

In summary, Mr. Chairman, the citizens of the State of Florida are very deserving of all of the help and support they can get both from our department and the local agencies in the State, as well as the Federal Government.

The current unrestricted efforts of the Federal Government through asset sharing have had a positive and direct impact on the ability to carry out our mission of protecting the Florida citizenry.

We appreciate not only the additional revenues but also the positive spirit of cooperation that has developed because of this program.

Thank you, Mr. Chairman.

This concludes my statement.

At the appropriate time I'll be glad to answer any questions.

Mr. HUGHES. Thank you, Commissioner.

[The prepared statement of Mr. Moore follows:]

PREPARED STATEMENT OF JAMES T. MOORE, COMMISSIONER, FLORIDA DEPARTMENT OF
LAW ENFORCEMENT

Mr. Chairman, It is a pleasure for me to be here today, and I would like to thank you for asking me to address this most timely issue, the Federal Forfeiture Asset Sharing Program.

I fully understand the need for brevity and so I would like to read a brief statement, and then I will be happy to answer any questions you may have.

First of all, it is important to note how participation in the Federal Forfeiture Asset Sharing Program has increased throughout the State of Florida and within FDLE. The level of revenue received by FDLE through the asset sharing program has increased over 1000% between Fiscal Year '87 and Fiscal Year '88 (FY 87 \$176,332 - FY 88 \$2.1 million). As you can see, the increase is dramatic and the dollar value of proceeds received by FDLE is significant.

Revenue from this program is placed into the Forfeiture and Investigative Support Trust (FIST) that the Florida Legislature established within FDLE. All revenues generated as a result of State or Federal criminal or civil forfeitures are deposited into this fund and are used exclusively for law enforcement purposes. Seizing assets from criminals is not only a good way to fight crime, but by then using the assets for additional law enforcement activities, it hurts the criminal element twice. FDLE, since the inception of this program in 1985, has used its portion of shared assets to assist in the funding of long-term, protracted investigations and to support the costs related to these extremely expensive investigations. This additional funding source has increased our ability to vigorously pursue criminals even though there is a large price tag on these operations.

Funds received through the asset sharing program have also increased dramatically among most local law enforcement agencies in Florida. Data for the State of Florida, which was provided by the U.S. Marshal Service, shows that from Fiscal Year '86 to Fiscal Year '88 there was a 2000% increase in cash and sale proceeds received from asset sharing. In Fiscal Year '88 Florida received \$167,600, in 1987 it was \$862,084 and in 1988 we jumped to \$3,688,188. I want to emphasize the positive effect this infusion of money has on our state's enforcement efforts. The assets shared in 1988 are equal to 5% of FDLE's total cost to provide direct support and services to Florida's police departments and sheriffs' offices. As this shows, the federal asset sharing program is enabling Florida law enforcement agencies to provide the citizens of Florida more effective protection and services without increasing the cost to taxpayers.

The increase in revenue, experienced by Florida, can be partially attributed to the U.S. Attorney, DEA, U.S. Customs, and FBI officials assigned to our state. They have been extremely helpful and cooperative in sharing assets, and educating state and local agencies about how the program operates and the correct procedures for making application. I would like to digress for a moment and take this opportunity to thank the Florida U.S. Attorney, DEA, U.S. Customs, FBI officials and their staffs for their outstanding efforts and support.

To provide this committee accurate information about how other states and local law enforcement agencies feel about the asset sharing program, FDLE conducted an informal survey of 16 local law enforcement agencies in Florida, and six other State law enforcement agencies from around the United States.

(Agencies contacted: Alachua County S.O., Brevard County S.O., Charlotte County S.O., Franklin County S.O., Palm Beach County S.O., Pinellas County S.O., Polk County S.O., Duval County S.O., Callahan P.D., Altamonte Springs P.D., Daytona Beach P.D., Metro-Dade P.D., Bartow P.D., Key West P.D., Orlando P.D., Green Cove Springs P.D.; California Bureau of Narcotics Enforcement, Georgia Bureau of Investigation, Illinois Department of State Police, North Carolina Bureau of Investigation, New York State Police, Virginia Bureau of Criminal Investigation.)

In general, all agencies surveyed had a very positive attitude towards the program and stated they had benefited either from the additional physical assets or additional monies. Many cited specific examples of how the additional revenues had increased their ability to purchase needed equipment and to conduct necessary investigations.

The asset sharing program has resulted in an additional benefit that most agencies mentioned during the survey. That benefit is the positive working relationship which has developed between local, state and federal agencies. This is a benefit that cannot have a dollar value placed on it; for as we all know, the only way to combat today's highly sophisticated and mobile criminal is to have cooperation throughout the entire law enforcement community.

Even though all of the agencies had positive things to say, a significant number also had consistent areas, within the program, that they felt could be improved upon. The first area was the speed of the process, from the time of seizure to distribution of assets. Many relayed information of applications taking 1 - 1 1/2 years before they received their distributions. It is worth

noting that many agencies also acknowledged that the processing time has improved over the last several years, but that they would still like to see additional improvements.

Tied into this complaint is the frustration of agencies attempting to track the status of their applications once it has left their home state. While being very complimentary of the service provided by the Federal agencies within their states, many were of the opinion that once the application arrives in Washington, D.C., it is next to impossible to track its status.

I think most state and local agencies understand that this is a very expensive program that is experiencing unanticipated growth. However, for most agencies, the assets being returned from the federal level are extremely important for operating budgets, and that unnecessary delays can impede the agency's effectiveness.

Considering the size of the asset sharing program and the demonstrated willingness to be responsive to state and local agencies, I think all individuals involved with it should be commended for their efforts. The problems that were experienced several years ago have been resolved and with the exception of the problems just noted, the program has been very successful.

Law enforcement agencies at both the State and local levels throughout the United States have benefited from the present and relatively unrestricted system that allows them to jointly seize property and receive the proceeds from the sale of the property. One change to the Anti-Drug Abuse Act of 1988

may soon and such transfers in jurisdictions that do not have forfeiture provisions, or mechanisms in place allowing law enforcement agencies to benefit from forfeiture actions. It has been suggested that the change was written in response to complaints from some states where the unrestricted transfer systems resulted in law enforcement agencies receiving assets rather than the general revenues of the states. If this is in fact the motivation for Section 6077, it would seem more appropriate for the states where this has become a problem to address the issue in their local legislatures rather than through this general prohibition.

Several of the states contacted during FDLE's informal survey, expressed concern about this issue and the impact it will have on their agency's effectiveness in combating crime. The State of Florida has some of the best forfeiture legislation in the country and yet we will also be effected. Florida law permits the seizure of real property only in certain limited situations. Currently, Florida law enforcement agencies are using the federal transfer procedure to enable them to benefit from real estate seizures. If Section 6077 is not repealed, it will have an adverse effect on the Federal Government's ability to share the assets from forfeited real estate in Florida, at a time when drug related activity is at an all time high.

The present cooperative approach at the federal, state, and local levels in investigating drug offenses and in funding those investigative efforts has helped, and should be allowed to continue to help, the coordinated effort in combating drug use and drug trafficking. I would urge you to support the repeal of Section 6077.

In summary, FDLE is committed to protecting the citizens of Florida and to making Florida a drug-free state. The current unrestricted efforts of the Federal Government through asset sharing have had a positive and direct impact on the ability to carry out this mission. We appreciate not only the additional revenues, but also the positive spirit of cooperation that has developed because of the program.

Thank you Mr. Chairman, this concludes my statement and I will be happy to address any questions.

Mr. HUGHES. Secretary Dean, welcome.

**STATEMENT OF JOSEPH W. DEAN, SECRETARY, DEPARTMENT OF
CRIME CONTROL AND PUBLIC SAFETY, STATE OF NORTH
CAROLINA**

Mr. DEAN. Thank you, Mr. Chairman, and distinguished members of this subcommittee. I am Joe Dean. I am the secretary of the Department of Crime Control and Public Safety, State of North Carolina.

I have been asked by the National Governors' Association and the National Criminal Justice Association to convey to you their desire that the offending section, as we in North Carolina would characterize it, section 6077(A)(3)(B), be postponed for a number of years to allow the National Governors' Association and the NCJA a chance to study it.

I will convey my State's desire, along with my colleague from Florida, that it be repealed.

Gentlemen, forfeiture sharing or equitable sharing is probably the best law Congress has ever passed, as it applies to State and local governments, to foster cooperation.

I was the principal drug prosecutor for eastern North Carolina in the Federal courts from 1971 to 1977. And during that period of time I saw very little cooperation between the Federal and the State and local agencies. There was some with the State.

But, gentlemen, I prosecuted cases for 7 years in Federal court, and I did not once have as a witness a local law enforcement officer.

There are 14 DEA agents in North Carolina, the 9th largest State in land area and the 10th most populous. There are 227 FBI agents, of which about 80 are assigned to drugs. The rest of the law enforcement in North Carolina is PD's and sheriffs' departments.

The best tool you have provided us with is equitable sharing. I have seen a level of cooperation between State and local agencies and the Federal Government that I never thought would be possible.

In my State we seized over \$5 million last year. To my colleague in Florida that would be peanuts, I suppose, but in North Carolina it's a substantial sum. It has made the difference in departments' level of cooperation.

I'll give you an example from my own department. I have as one of my agencies the North Carolina State Highway Patrol.

In 1986 the Regional Director of DEA came to my office and asked us to start Operation Pipeline, which is using patrols to interdict drugs going north and money going south on Interstate 95 and other interstates.

At that time the leadership of the patrol did not really want to get involved because it was not a traditional function of their department, it was something new and different, and they really saw no interest in it until he started mentioning asset sharing. And then everybody's eyes lit up.

We instituted that program in 1986, and we have seized 100 and some odd kilos of coke, about 1,500 pounds of marijuana, more or less, guns, cars, property and \$1.6 million in cash, which has been

shared between the Federal Government, the highway patrol and the State bureau of investigation.

The one biggest topic of conversation in North Carolina in law enforcement since the 1988 amendment has been this:

I've heard from the chiefs' association, the sheriffs' association. Every sheriff in North Carolina I've talked to, every chief I've talked to, everybody at the police executives meeting, all three U.S. attorneys, the attorney general of the State, my Governor and everybody else I've talked to that has anything, any interest, in law enforcement is scared to death that it's going to be taken away.

Now I'm speaking from the perspective of those few States that have a constitutional amendment which requires forfeited property to go elsewhere, whereas Florida's stake in it, as the commissioner has stated, affects some assets of, I believe you said, real estate, commissioner.

I'd like to read you the pertinent part of the North Carolina State constitution, which was passed during Reconstruction, 1868, before dope was heard of in North Carolina.

It states as follows: "... the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools."

Thirty-eight million dollars is obtained from fines and forfeitures in North Carolina court systems. It goes to the local school funds.

That's fine. Law enforcement has no quarrel with that.

Prior to 1984 the kinds of forfeitures we're talking about were not made.

Since 1984 and since the passage of the law that allows it, we have started forfeiture assets of drug traffickers, their money, their cars, their belongings, their houses, et cetera, which has had in my judgment, substantial impact on those individuals but, more importantly, has led to the kind of cooperation between State, local and Federal officials I've never seen before.

Now, the obvious answer is: Repeal your constitutional provision.

That sounds good in print, gentlemen, but the State's largest business is education. The education lobby in my and every other State, I suppose, is by far the most powerful lobby. Certainly by a factor of five or six it is the most powerful lobby in North Carolina.

A State constitutional amendment will require 3 to 4 years, probably, if we could get one. It will require a three-fourths majority of the house and the senate, both the State house and State senate.

I think the most telling part of this was in 1986. The North Carolina General Assembly passed a State RICO law which tracks, at least by forfeiture, what you gentlemen passed in 1984, and some State agencies and local law enforcement agencies started forfeitures under that State law, which reflected the current legislative intent of our general assembly.

The school board filed suit and got the money under the constitution, which they were legally, I suppose, entitled to do.

The question is whether some States, States like mine and others, can repeal the constitutional provisions such as we're talking about. It is questionable. It is problematic.

If I were going to place a bet, I'd say no.

Yet the assets we are seizing under this law were never seized before. I submit to you that if it is repealed they will not be seized this time.

Law enforcement in North Carolina, as I suppose everywhere else, is extremely understaffed. My department tends to be at the back of the line, certainly behind education, which is first.

The assets that we seize, the money that we can turn into pure law enforcement, makes a difference in my State. It really does. It makes a difference to sheriffs and to police chiefs.

But mostly it's the cooperation that comes from it and the good that we are able to do in getting dope off the streets and the dopers tied up, financially as well as criminally.

If you take the profit out of it, you'll do away with it. This is the thing that takes the profit out of it.

But it's unreasonable, I suppose, in many respects to go to a sheriff and say, "Give me 2 men for 6 months."

And he says, "That's impossible; I don't have enough men as it is."

You say, "Give me 2 men for 6 months, and you'll seize enough money and assets to give yourself 10 men for 2 years," and he'll do it.

So what I say, gentlemen, is this: You have passed the most effective law for State and local cooperation, State, Federal and local cooperation, I've ever seen, and it works.

It works in my State brilliantly, to a level I've never seen before.

I am expressing not only my views, but the attorney general's and every sheriff and police chief I've talked to and all three U.S. attorneys.

It wasn't broke from our standpoint in 1984. And the old saying in North Carolina is: "If it ain't broke, don't fix it."

We would ask you to repeal section 6077(A)(3)(B) because, if it isn't repealed, the chances of our going back to the old ways in North Carolina are substantial and the only loser is going to be law enforcement because these assets never went to the school fund before.

The \$38 million comes out of the court system, which is fine.

If it is not repealed, the only people that are going to win, in my judgment, in my State, are going to be the drug traffickers.

Mr. HUGHES. Thank you, very much, Mr. Secretary.

[The prepared statement of Mr. Dean follows:]

PREPARED STATEMENT OF JOSEPH W. DEAN, SECRETARY, DEPARTMENT OF CRIME
CONTROL AND PUBLIC SAFETY, STATE OF NORTH CAROLINA

Mr. Chairman and Distinguished Members of the Committee:

My name is Joseph W. Dean. I am Secretary of the North Carolina Department of Crime Control and Public Safety.

I speak today on behalf of my state, the National Governors' Association (NGA) and the National Criminal Justice Association (NCJA). I want to share with you the views of these organizations and the State of North Carolina on a 1988 amendment to forfeiture provisions of the federal Controlled Substance Act that is being interpreted to preclude law enforcement agencies in some states from sharing in assets forfeited as a result of joint enforcement efforts. The NGA and the NCJA are extremely concerned that the net effect of this amendment, if it takes effect on October 1, 1989, as currently required, will be to discourage state and local law enforcement agencies from cooperating with federal enforcement officials in investigating and prosecuting cases involving drug law violations. On behalf of the NGA and the NCJA, I urge you to postpone the October 1, 1989, effective date of this provision on cooperation between state, local and federal agencies in drug law enforcement activities.

As you undoubtedly know, the NGA represents the governors of the 50 states, the Commonwealths of Puerto Rico and the Northern Mariana Islands and the territories of the Virgin Islands, Guam and American Samoa. Its missions are to

influence the development and implementation of national policy and to apply creative leadership to the solutions of state problems. The NGA Committee on Justice and Public Safety is responsible for examining issues in the areas of criminal justice and public safety and for recommending policy to address these issues.

The NCJA, which represents governors' key policy advisors in the areas of crime control and public safety, assists these gubernatorially-appointed state members in identifying and addressing the public safety needs and problems of the states and their political subdivisions. Under a formal cooperative agreement with the NGA, the NCJA also serves as the staff arm of the NGA Committee on Justice and Public Safety.

The forfeiture provision that the NGA and the NCJA are urging you to re-examine is Section 6077(A)(3)(B) of Subtitle B of Title VI of the Anti-Drug Abuse Act of 1988 the equitable sharing provision. In essence, this section provides that a state or local law enforcement agency that has participated with federal authorities in a cooperative law enforcement operation may not share in the proceeds of a federal forfeiture resulting from that operation if the U. S. Attorney General determines that the state's own statutory or constitutional provisions regarding forfeiture direct that

assets forfeited under the state's provisions go to some entity other than law enforcement agencies.

The practical effect of the federal provision may be that in a state such as North Carolina, where a constitutional provision requires all proceeds from forfeited assets go to "education fund," a state or local law enforcement agency that for months, perhaps years, has worked closely with a federal enforcement agency on a drug trafficking investigation; that may have developed the investigative intelligence generated in the original case; and that has contributed manpower, equipment and other resources to the investigation cannot share in the proceeds of the forfeiture resulting from its efforts. Such a decision would be both inequitable and shortsighted.

The legislative history of Section 6077 suggests the reasons for the amendment, congressional concern that state and local enforcement officials routinely join forces with their federal counterparts to circumvent the provisions of their state's statutes or constitution that prevent local law enforcement agencies from sharing assets forfeited under state law.

An example of a limitation of the use of shared property would be a state law provision requiring all or a percentage

of the property to go to the County School Fund. Such a limitation is found in the North Carolina State Constitution.

Article 9, Section 7 of the North Carolina Constitution provides in pertinent part:

. . . the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of penal laws of the state, shall belong to and remain in the several counties, and shall be feithfully appropriated and used exclusively for maintaining free public schools.

Currently the United States Attorney General, by policy, requires that all shared property be used by the transferee for law enforcement purposes. The conflict between state and federal law would prevent the federal government from adopting seizures by state and local agencies.

As I will discuss in more detail, this provision would have a devastating impact on joint efforts by federal, state and local law enforcement agencies not only in North Carolina but also in the other affected states.

Some years ago, as an Assistant United States Attorney in Eastern North Carolina, I successfully prosecuted one of the largest heroin distributors in the United States. That prosecution was the result of cooperation between state and federal investigating agencies. That cooperation was unusual at the time and resulted primarily from the shared perception of the importance of the defendant we had targeted.

In North Caroline, as in most states prior to 1984, cooperation among state, local and federal authorities could have been characterized as haphazard at best. Each jurisdiction had a clear idea of its responsibilities and pursued them with a single-minded determination. The investigation of drug dealers most often stopped at the city, county or state line depending on the investigating agency's jurisdiction. The only beneficiaries of this lack of cooperation were the drug traffickers these agencies sought to apprehend. The effort with which we waged the war on drugs was, to a large extent, determined by the amount of financing each jurisdiction could muster. While the federal Drug Enforcement Administration (DEA) would often provide leadership, it seldom could provide manpower in sufficient numbers to make its role meaningful in a state like ours.

Today, there are 14 DEA agents to cover North Carolina, the 9th most populous state in the Union. Of the 227 SBI field agents in the State, fewer than 80 are assigned to narcotics on a full-time basis. Although any criminal field agent can work drug cases, many of the narcotics agents are assigned to the DARE education program or to monitor hospitals, pharmacists, doctors and others who dispense drugs to detect diversions and are thus not available on the streets. If a sheriff's department has a narcotics squad, it

generally represents a small portion of its total manpower. The same is true of the smaller to middle sized cities in our state.

If all of the state law enforcement officers in North Carolina were diverted from their other responsibilities and assigned solely to the investigation of drug trafficking, I doubt that their efforts could prove equal to the task. Law enforcement is still, essentially a local problem. The failure of DEA to enlist state and local government in its cases due to the lack of the financial incentive of federal forfeiture, will have a severely detrimental effect.

In 1984 the United States Congress, in recognition of the magnitude of the drug problem throughout this country, began to provide law enforcement officers with the tools necessary to wage an effective war on drugs. One of the most useful tools was Section 881 of Title 21 U.S. Code. Between October 1985 and December 1987, in excess of \$5 million has been shared with state and local law enforcement agencies in North Carolina. Since the legislation mandates that these shared funds be used for law enforcement purposes, they have provided a significant increase in the sharing agencies' ability to wage the war on drugs.

One example of how forfeiture has increased drug enforcement is in my department. Federal DEA officials came

to me and requested that the North Carolina Highway Patrol become involved in "Operation Pipeline", a drug interdiction program operating on our state's highways.

Patrol leaders were reluctant to become involved in drug enforcement, a non-traditional role for their organization, because of a severe shortage of manpower. They agreed because of forfeiture sharing. To date, they have seized 100 kilograms of cocaine, 1,500 pounds of marijuana and seized \$1.6 million in cash plus many cars and other property. Take away forfeiture sharing and you offer an incentive to retrench to old ways. This is only one example of many in this state.

As important as these examples are, they are by no means the most important benefit derived from the advent of asset forfeiture sharing. The greater good comes from the increased state, local and federal cooperation asset forfeiture sharing as engendered.

It was not too long ago that the level of cooperation we enjoy today was thought to be unattainable. As with jurisdictional concerns, different levels of law enforcement have concerned themselves with different types of drug traffickers. DEA, Customs and the FBI have concentrated their enforcement activities at the highest level of perpetrator. In the process, they have all but ignored middle to lower level dealers. Local law enforcement had been forced to fight

that battle largely unaided by federal resources. Often lacking the skill and expertise necessary to tackle traditional federal targets at the local level, these kingpins were usually left to the federal agencies. These agencies were those often denied the manpower they needed to mount an effective coordinated effort.

Questions of jurisdiction, responsibility, tactics and strategy often created a chasm we could not cross. Disincentives abounded. Petty rivalry all too often precluded things as basic as information sharing. These problems have not magically disappeared. Federal dollars have helped bridge the gap.

Do not misunderstand what I am saying. These programs were always worthwhile. Many like this will no doubt be continued regardless of what decision the Congress makes on this amendment. But, as Congressmen, you also understand when money is appropriated for one purpose, in this case motor vehicle law enforcement, that is the yardstick by which the executive branch will be measured. Meritorious, but unauthorized programs, particularly those that are manpower intensive need to have a big payoff. Experience has shown that the vast majority of the drugs we intercept are destined for delivery in other states.

Most cases prosecuted at the federal level, including major drug trafficking cases, originate with state or local law enforcement agencies. Federal enforcement officials; therefore, have as much, perhaps more, to gain from joint federal state and local efforts as state and local agencies have and more to lose if cooperation declines or ceases.

In assessing the impact on state and local law enforcement, Margeret Person Currin, U.S. Attorney for the Eastern District of North Carolina, wrote of the effect of the amendments:

Drug agents would have much less incentive to follow through on the assets potentially held by drug traffickers, since there would be no reward for such efforts and would concentrate their time and resources on the criminal prosecution. The excellent federal, state and local cooperation we now enjoy would be substantially compromised. Hence, there would be a definite and substantial impact on state and local law enforcement . . .

All three U. S. Attorneys in North Carolina are strongly opposed to the section under discussion and favor its elimination or at least a long postponement. All three U. S. Attorneys in North Carolina approve and support the way forfeitures are currently being handled and see no abuse of the federal criminal justice system in North Carolina in its current use.

Article 9, Section 7, of the North Carolina Constitution requires that fines and forfeitures levied in criminal judgments go to the school fund of the county of the trial. This constitution, enacted during reconstruction when crime was far simpler, did not contemplate the size or complexity of modern drug trafficking. Law enforcement in North Carolina has no quarrel with fines and forfeitures levied by judges at the time of sentencing going to the school fund. In fact, under current procedures, some \$38,000,000 in fines and forfeitures are disposed of in this manner. But, the state court's strict interpretation of this constitutional provision prohibits law enforcement from benefiting monetarily from seizing drug related assets in an attempt to financially injure drug traffickers.

The legislature of the State of North Carolina in 1986, passed a strict State RICO law similar in forfeiture provisions to the federal law. So far the courts of North Carolina have been holding this State RICO Act in violation of North Carolina's constitution and thus law enforcement is thwarted from receiving assets resulting from their own investigations.

Although the legislative intent of the North Carolina General Assembly is to allow forfeitures to the benefit of law enforcement, our constitutional provision prevents it. Any

attempt to amend the State Constitution will take two to three years assuming it could be done; since state education interests are opposed to any constitutional changes.

Education is any state's biggest business. The education lobby is the most powerful in the state and has taken a position against law enforcement being able to share in seized assets. The irony is that if local and state law enforcement agencies cannot share, the assets will in all likelihood not be seized and forfeited. Thus, no one wins but the drug trafficker.

In North Carolina, the drug problems can be characterized as infinite; our law enforcement assets as finite. If there is no financial benefit to law enforcement to go against drug assets, there will arise a tendency to apply limited resources merely in prosecutions.

In my judgment, the most positive federal law enacted in the last decade for state and local law enforcement in North Carolina was The Controlled Substances Act of 1984.

The reason it has had the most positive effect, is its financial sharing provisions. If this financial sharing stops, we will kill the goose that laid the golden egg.

In summary, I urge the committee to delay the current October 1, 1989, effective date of the equitable sharing provision. As the committee knows well, cooperation between enforcement agencies at all levels of government is vital to the overall drug control efforts of this country. In recent years, the federal assets sharing program has been an important incentive to such cooperative efforts. In addition, it has provided critically-needed resources to augment state and local enforcement agencies' own drug law enforcement activities, as well as costs of their participation in multi-jurisdictional task forces and other joint enforcement operations.

Thank you for providing me the opportunity to testify on behalf of North Carolina, the NCJA and the NGA before the committee today. I would be happy to answer any questions that you may have.

Mr. HUGHES. Mr. Page, welcome.

STATEMENT OF RALPH PAGE, CRIME STOPPERS OF BROWARD COUNTY

Mr. PAGE. Thank you, sir.

There's nothing wrong with my eyes; it's just that my arms are getting too short.

First I want to take this opportunity to thank you for allowing me to appear here today to discuss what I believe is one of the most effective community-based, affirmative-response programs in existence and the most judicious use of forfeited funds.

Let me explain briefly how the Crime Stopper program works, which is what I am talking about.

A member of the community has information about a crime or a criminal. He or she calls the Crime Stopper number. The police officer who answers the phone does not ask the person's name, but assigns that person a control number.

The information is then provided to the affected police department in the community. If the information leads to an arrest, the Crime Stopper officer recommends a reward of from \$50 to \$1,000 to the Crime Stoppers' board.

The Crime Stoppers' board of directors reviews the reward recommendations each month and authorizes payment of the rewards. A check is issued payable to the control number—not to the name, to the control number. And the source of information retrieves it from a cooperating bank.

The Crime Stopper program has three main elements, its board of directors, law enforcement and the media.

The board of directors is a group of unpaid, civic-minded individuals who have committed themselves to raising the necessary funds to provide rewards for information that will take a criminal off the streets of our community.

The law enforcement agency—in Broward County it's the Broward Sheriff's Office, and in Dade County, to the south, it's the Metro Dade Police Department—provides the manpower and facilities to handle incoming calls with tips about crime or criminals' activities.

The media is the vehicle used to provide information to the public about criminals being sought or cases where information is needed by the police.

We at WSBN provide this service to Crime Stoppers in two ways.

We have a weekly program where we reenact crimes that police have not been able to solve through conventional means, soliciting information at the time we broadcast these.

And then twice a week we air a program called South Florida's Most Wanted. It's very simple: We display pictures of one suspect—it's an extension of the old post office wall—and solicit information.

Both programs have been highly successful, resulting in the capture of persons accused of very heinous crimes.

A couple examples: A woman who was wanted for over a year and couldn't be found, in connection with the beating deaths of two elderly women during a drug-induced robbery spree, was arrested after one broadcast; a man who shot at a van after a drug deal but

instead struck and killed an innocent person sitting in a wheelchair across the street was captured as a result of this program.

The Broward Crime Stopper program alone solved 20 homicides last year, 1988: More than \$5 million worth of property was recovered; an arrest as a result of a Crime Stopper tip was made every 6.1 hours; more than \$12,000 worth of stolen property or narcotics were recovered for each man-hour worked by the Crime Stopper unit.

Those are the 1988 figures.

Based on the almost \$6,000 a month the board of directors is approving in rewards so far in 1989, we expect those figures to rise dramatically.

We on the board of directors have our work cut out for us. We must raise the funds necessary to provide the rewards.

We do so in the manner familiar to most civic organizations: Fishing tournaments, dances, generous donations from large corporations.

On occasion we receive donations from forfeited funds.

The Crime Stopper program is responsible for arrests that net police departments millions of dollars in forfeited money or property. We receive a small percentage of those moneys in return as donations to our reward fund.

The Crime Stopper policy is, however, that we are a community-based organization and will raise the bulk of our moneys through donations and civic activities and that no moneys donated, even the forfeited moneys, for our rewards will be used as administrative costs of the program. Everything we use goes to the reward fund.

As you see, we are proud of our Crime Stopper program here. It is truly an example of how a community can come together to affect a common problem, crime.

It is not the only answer, but we are doing something.

There's a couple of examples I'd like to cite real quickly.

Last week the city of Fort Lauderdale gave the Crime Stoppers' reward fund, from forfeited funds, a \$10,000 check.

That same week a tip to the Crime Stoppers program led to the arrest of an individual with 5 kilos of cocaine. In addition to the 5 kilos of cocaine, a search warrant was issued to the warehouse. Another kilo was seized.

In the warehouse were a number of antique cars, some other valuable property.

In the back of the house where the arrest was made was a 42-foot yacht.

Now, it's obvious that that money, forfeited to the city of Fort Lauderdale Police Department, is going to go a long way further than \$10,000.

Over the years—and the Crime Stopper program in Broward County has been in effect for about 8 years—we've received generous donations from the forfeiture program from the Broward Sheriff's Office and from the Fort Lauderdale Police Department and various other police departments.

We have been able to obtain a ruling from the attorney general of the State of Florida that that is a legitimate use of forfeited money.

The moneys go a long way.

I'd like to touch very briefly on a little bit of an aside.

As you introduced me, you notice that I wear two hats, several hats. I just can't seem to make up my mind which way I'm going sometimes.

But I'm also a part-time police officer with a very small police department. I'm a command officer and do mostly administrative work—a 21-man department.

Forfeited funds—and I've got to agree with Mr. Dean—and the forfeiture program that you have enacted have gone such a long way in establishing relations between a very small police department and Federal agencies.

They have allowed us to do things that we would have never been able to do because we have but a small budget base and we do not have the capability to extend our detective bureau, two people, to do these kinds of investigations. We cannot because of our city fathers and the return on the investment.

It is an important program, and therefore I would like to agree with these gentlemen for the repeal of section 6077.

Thank you very much.

Mr. HUGHES. Thank you very much, Mr. Page.

Has the Crime Stoppers program received any Federal forfeited funds?

Mr. PAGE. Well, the funds, we don't know whether they're Federal or not—

Mr. HUGHES. I see.

Mr. PAGE [continuing]. Because what happens is that the asset sharing goes to the local police department and the local police department then allocates the money to us, possibly.

They're intermingled, so I'm sure we have in one way or another. There have been no direct funds.

Mr. HUGHES. Are the Crime Stoppers, for instance, in the Fort Lauderdale area linked to other communities in any way through any networking?

Mr. PAGE. There are about 600 Crime Stopper programs across the world. We all belong to a program called Crime Stoppers, International.

The Crime Stopper program started in Albuquerque, NM, 10 years ago. We are linked with every one of these programs. We contribute dues and funds.

We are an independent organization here. Each Crime Stopper program is independent. We do not share funds. Each board of directors raises the funds for the rewards separately.

Mr. HUGHES. Commissioner Moore, I'm glad that the bulk of your problems in equitable sharing have been alleviated.

You state that you still have some problems tracking the process of your applications.

What do you think we need to do to try to provide you with better information on where forfeited assets are in the pipeline that you have a specific interest in?

Mr. MOORE. Mr. Chairman, we do such a good job in the country in handling large volumes of very sensitive information on a daily basis.

I'm at a loss as to why we can't apply that same technology in some kind of centralized fashion in justice somewhere that would

allow an agency to inquire on case No. XYZ and get a status as to where it's located at any point in time.

Again, I've got to reiterate that those comments, for the most part, came from our survey of the local agencies in the other States.

I think if other States were as fortunate as we are here in Florida to have the kind of Federal personnel assigned, the diligence of the Federal personnel who assists in finding out, even through the morass of bureaucracy in Washington, where any document is at a point in time would be helpful.

But I just think some basic information-sharing technology ought to be put in place that would connect that.

Mr. HUGHES. I'm also concerned about the length of time it takes us to process some of these assets. We're still taking an inordinate amount of time.

What is your perception?

Is it because of delays in the judicial process? Are these mostly judicial forfeitures, or do you sense delays also in the administrative forfeitures or a combination of both? Just where are the delays occurring?

Mr. MOORE. Mr. Chairman, I'm sure it's a combination of both, but, frankly, I see more of a problem and hear more of a problem on the judicial side of the equation.

I think we've gone a long way already in appropriating additional assistant U.S. attorneys for the country to help out and be specially trained in the forfeiture business.

I know here in the State of Florida we're so short on prosecutors, on U.S. attorneys, that we oftentimes have to prioritize prosecuting a criminal case above perhaps handling a forfeiture action.

So I think maybe, when we begin to see the results of the additional prosecutorial resources that we're seeing around the country, maybe that will help.

But I sense more concern and more time delays on the judicial side of the equation.

Mr. HUGHES. Each of you have touched upon section 6077(a)(3).

That section prevents a circumvention of State law and was written primarily to deal with situations like what occurred in California, which I think points up perhaps best what the subcommittee had in mind.

In California the State law provided for a certain formula for an equitable sharing among a number of agencies within the State.

However, the law enforcement authorities did not like their law and we were adopting forfeitures that were entirely State seizures, and in so doing we were using the Federal process, to avoid the distribution under State law.

The Federal Government had no presence in the seizures at all. It was not a cooperative effort.

That was really the problem that that particular section was intended to rectify.

Now, let me ask you this, Mr. Dean: In North Carolina you have a constitutional provision——

Mr. DEAN. Right.

Mr. HUGHES [continuing]. That decides how seized assets will be distributed, and it goes for educational purposes.

Would it be constitutional for the Federal Government to permit its process to be used to redistribute assets to other than the entities that the constitution provides will receive such assets?

Mr. DEAN. Yes. Because you have totally concurrent jurisdiction. The Federal Government and the State government both have complete jurisdiction and have a right to forfeit what they will.

I think if you look at the RICO law which the general assembly passed, it was a share. It was 50 percent to go to the school fund and 50 percent to go to law enforcement.

Mr. HUGHES. Well, let me ask you—

Mr. DEAN. And the school fund wasn't satisfied with that.

Mr. HUGHES. Let me just interrupt you there.

If a Federal agency has had no involvement in investigating or seizing the assets, what would be the basis for jurisdiction in North Carolina?

Mr. DEAN. Well, like what happens in Operation Pipeline, when DEA convinced my patrol to do that: The patrol stops someone, we turn it over to the FBI, the FBI turns it over to the U.S. attorney or the DEA and it goes from there.

I don't believe that there is a State constitutional problem there, and I don't believe there's a Federal constitutional problem there.

Mr. HUGHES. Well, the question basically is even more than federalism. At the very least it would do tremendous damage to the whole concept of federalism if we permitted, for instance, the Federal judicial process, to be used to basically undercut or circumvent State law.

That's what we were doing in California. In the California experience the Federal Government was keeping 10 percent of the proceeds and 90 percent was going to law enforcement.

So in that instance you have law enforcement basically engineering a subterfuge to avoid the mandate of State law, and it does great violence to the whole concept of federalism.

As I indicated, in the State of North Carolina, where you have a constitutional provision, I question whether or not it would be constitutional to so divert resources.

I suspect that you'd have a major challenge. As the assets that were to be shared increased, I'm sure the propensity to challenge the constitutionality of the process would increase as well.

Mr. DEAN. Well, if you look at it within the context of the time frame, however, in 1868 what they were talking about was when the judge says, "I fine you \$5 and the cost of court."

At that time there was a school fund, and that's what has been happening for the last 120 something years.

What we're talking about are not fines and forfeitures in the classic judicial sense of the way they're extracted in the judicial history of my State.

We're talking about seizing assets in a way that was not contemplated by the constitution at all.

When the general assembly in North Carolina said, "That is a good idea; we will track Federal legislation by State legislation"—and this is the legislative board of North Carolina—and they passed the State RICO law, which provided that half the funds would go to the school fund and half of them would go to law en-

forcement, the State courts had been ruling based on the constitutional amendment.

Now the question is: Can that constitutional amendment be amended or stricken?

If so, it will take 3 to 4 years to do.

Mr. HUGHES. But isn't that the province of the State to do that?

I mean each of the States has their own formula for distributing funds. In fact, the States that we represent each have their own equitable sharing formula.

Now, there is no problem if in fact the Feds have a legitimate cooperative role. If the Federal Government or its agencies, its law enforcement agencies, are involved in an investigation and seizure, there is no problem under that section because we have a legitimate role; we're not circumventing any law.

However, for instance, in the State of Florida there is even a question with regard to forfeited real estate, which is not subject to forfeiture under State law.

But the question then is: Isn't it for the State of Florida to decide how they want to treat strictly Florida assets, assets that are seized by Florida law enforcement agencies; shouldn't that be determined by the people of the State of Florida?

Mr. DEAN. It seems to me that you've got two tracks that you can go on, each independent of the other, in the law enforcement work: You have the Federal track and the State track.

And where they have concurrent jurisdiction, I see no problem in going either one way or the other.

Mr. HUGHES. But we have—and I might address this to you, Mr. Moore.

We're already overwhelmed in the Federal system, even with the addition of new resources, particularly resources for the U.S. attorney's office which we have needed for some time, and the U.S. Marshals Service, which has been undermanned, and all the other law enforcement agencies.

I mean we are stretched very thin, even with the additional resources that we've secured. We're overwhelmed in the system. That's part of our problem in trying to process it through the system.

Why in the world should we be using the Federal process to circumvent essentially State law unless there is some Federal participation in the seizure?

Mr. MOORE. Fair question, Mr. Chairman.

In the majority of the cases that we work here in the State, there is some Federal participation. There's not a problem with the strict adoptive provisions that we're talking about here.

But, quite frankly, we're overwhelmed too. In the State of Florida we had over a million serious crimes reported in 1987, and 1988 is not going to be any different whatsoever.

And a large portion of those crimes, upwards of 65 percent, is drug related.

Now, how we look at this is that it's not necessarily a State problem or a county problem or a city problem; it is a U.S. Government problem, it's a country problem, because Chicago's cocaine problem starts right down here in Florida.

Yet in the State of Florida, what I hear you saying is analogous to "let us take care of our business."

What happens in our \$21 billion budget, Mr. Chairman, is each year less than 6 percent of those State revenues go to fund the entire so-called criminal justice system, less than 6 percent.

Mr. HUGHES. But isn't that something, if in fact your concern is over the sharing of resources, that should be directed by your State legislature and your Governor to deal with Florida problems; that is, if there is no Federal law?

Mr. MOORE. Absolutely. In the State of Florida that is how it is handled, Mr. Chairman. We could get \$10 million from the Federal Government tomorrow, and we couldn't spend a penny until our State legislature appropriates it.

Mr. HUGHES. Well, that's basically all that amendment says, however.

Mr. MOORE. Well, I see this as being maybe the camel's head in the tent door: You know, we've got to be careful that we don't let this evade; we've got to keep up our efforts on all fronts.

So I think that maybe the State of California could do something similar to that, if it's a California problem.

Mr. HUGHES. Well, California already has. Because of the amendment, California changed its law. That basically was the argument of the committee.

The reason the amendment passed is because this subcommittee tacked it onto the 1988 Anti-Drug Abuse Act, because we believe basically that states should decide for themselves what to do with the State forfeited assets.

They seem to be doing just that. The States are now, because of the amendment that's been passed, developing new legislative initiatives and reexamining how they want their forfeited assets treated.

Frankly, that's the way it should be.

Mr. MOORE. There are other things—and I don't take issue with the intent of this subcommittee or the genesis for this amendment, not at all. I think the intent was there.

But there are other things besides just the dollar value in seized asset sharing that comes into play on adoptive forfeitures, as you well know.

Here in the State of Florida we've got one of the most restrictive discovery deposition processes of anybody in the country. We're analogous to New Hampshire and Vermont in terms of our discovery deposition provisions.

Well, a lot of times a decision can be made on taking a case federally because the Federal discovery system is much more advantageous to prosecution.

So there are things other than just the dollar that drive some of these adoptive forfeitures.

Mr. HUGHES. But the answer is, if in fact we have problems with the State discovery system, then perhaps we should reexamine the discovery system within the State.

But to circumvent that—

Mr. MOORE. We've been trying to do that for the last 10 years.

Mr. HUGHES. But to circumvent that by using the Federal process, it seems to me, does great violence, first of all, to the whole

concept of federalism, but, second of all, we all have resource problems.

States are reexamining a lot of their different procedures, as is the Federal Government.

I hear what you're saying.

I think that the problems that have surfaced today can be addressed because it was only intended to avoid the circumvention of State law.

Mr. MOORE. Mr. Chairman, if I could add one closing remark, then I'll close.

That's a heck of a gamble on the backs of the law enforcement officers, men and women and the citizenry of the country.

Now, if the gamble pays off and States do their laws and comport with the Federal laws, fine, we're all alike.

If they don't, then, you know, that's having a negative effect upon our ability to do the job on the front lines.

Mr. HUGHES. Yes, sir, Mr. Secretary.

Mr. DEAN. I'd like to amplify on that, if I might, Mr. Chairman.

Mr. HUGHES. Sure.

Mr. DEAN. Let's look at it from another perspective. I mean let's just be practical, and let's look at the practical political side of it.

We've got 50 States in this union, each one of which are driven by slightly different political systems. I don't mean totally different systems, but I mean with precedents of their own.

A Federal law which says largely that you will conform or die to some extent gives me great heartburn. It would take my State 3 years to amend its constitution if we started now.

I assure you we're going to try to do what we can. But a postponement, at the very least, will save what we are building in North Carolina.

I agree with my colleague: It is a tremendous gamble because, if it doesn't pay off, the losers in North Carolina and Virginia and Michigan and some of the other States that have this kind of a problem are going to be the citizens of the State and the Nation also, and the only winners are going to be bureaucrats.

In my State, the legislative, modern legislative, intent is just the same as the Federal law. My Reconstruction constitution says otherwise.

The State school lobby, frankly, is saying this: "We know that you didn't seize those assets before 1984 and we know you may not seize them under this system, but we don't want any chink in the armor and at the slightest crack we will fight you fang and claw with the most powerful lobby in the State by a factor of five."

I've got to get a three-fourths majority of the house and the senate. I will try to. My Governor will try. We will do what we can, but at the very best it's going to take 3 years to effectuate.

If on October 1st of this year this amendment becomes effective, over the next 2 years we will do enough violence to what we have already built up that, if we do get an amendment, we're going to be further behind the 8-ball.

In my judgment I don't think it's worth taking that chance.

Let's not look at pure federalism in the face of a cancer that is destroying this country inch by inch. You passed the best law, in

my judgment, that has been passed for law enforcement in 1984, but the 1988 amendment will kill North Carolina's participation.

Mr. SMITH of Florida. I appreciate that.

Mr. Dean, let me ask you a question. I'm having a difficult time following you.

Did we all agree that if in fact there was a joint operation, Federal and State, that there would be no problem in sharing these assets; we wouldn't be circumventing any specific area of North Carolina law, or do you say that joint operations are also circumventive?

Mr. DEAN. I suppose that if the arrest is effectuated by the DEA or the FBI or Customs or the Secret Service or some other Federal officer, if they obtain process in a division of the Federal court, it certainly would be a Federal.

Mr. SMITH of Florida. All right. Well, let's stop there.

So if in fact an agency in North Carolina, the Charlotte Police Department, had a hand in that operation and the Federal Government shared some assets with them in reimbursement for all the expenses that they had, that probably wouldn't be a circumvention of State law, correct?

Mr. DEAN. I would doubt that that. I think you're accurate.

Mr. SMITH of Florida. Fine.

Mr. DEAN. But most of the cases that arise, gentlemen, don't come from the 14 DEA agents.

Mr. SMITH of Florida. Well, I understand.

Mr. DEAN. They are State and local generated.

Mr. SMITH of Florida. Mr. Dean, let me go down this road and see if I can somehow work this out.

The second case comes where the Feds make a case themselves inside the State of North Carolina.

Are you aware of any kind of specific time when in fact the Feds shared assets on a case they made and did by themselves?

Mr. DEAN. No.

Mr. SMITH of Florida. All right. So we've disposed of that problem.

Now, the third case comes when the State, through its State agency or a local agency, makes a case of its own and as a result seizes some assets.

Now, you're telling me that under current State law those seized assets are distributed according to the State legislature's directive a number of years ago, 50-50; right?

Mr. DEAN. No. That law that the State legislature tried was struck down or has been struck down in every case that's been tried. It did not work.

Mr. SMITH of Florida. So where does the locally seized asset money now go?

Mr. DEAN. The locally seized asset money now goes—property or money, if the case is adopted by the Feds, it would to—

Mr. SMITH of Florida. Forget about, I don't want to know about, adoption.

I want to know right now where it is, if it's a State matter and it stays with the State of North Carolina.

Mr. DEAN. Well, prior to—it's kind of an odd question because prior to 1984 we didn't seize money and property.

Mr. SMITH of Florida. But you do since then, and you've had a 5-year basic experience route.

Mr. DEAN. Since then it all goes in the Federal process.

That's really what I'm saying: If the Federal process is taken away, there is nothing in it for law enforcement.

Mr. SMITH of Florida. You mean North Carolina has no State capability of dealing with seized assets, none?

Mr. DEAN. You could seize them and forfeit them in the superior court, and they would go to the school fund, yes.

Mr. SMITH of Florida. All right. So you do it. It goes to the school fund.

Mr. DEAN. When it is done, yes.

Mr. SMITH of Florida. All right. So North Carolina has this process.

Now, if in fact the Feds do it themselves, it has no effect in North Carolina, if the State does it itself, there is a method for having it done, and if the joint operation, where there is both State and Federal cooperation, money that is distributed can be distributed without violating the constitution. Where is the problem here?

We've just examined all the ways you can make a case in the State of North Carolina, local case or State case with the Feds alone.

The Feds alone are no problem, the State case alone is no problem. There is a method in North Carolina for distribution of those seized assets—and the joint one, which you've said does not in fact violate the law, if the proceeds are given the way the Feds want to give it.

Then where is the problem with this particular provision of the law?

Mr. DEAN. Because 99 percent of all of the current forfeitures that go to local law enforcement are initiated by local and State local enforcement and adopted by the Feds.

Mr. SMITH of Florida. Since when?

Mr. DEAN. Since 1984.

Mr. SMITH of Florida. All right. Now, however, why are they going to the Feds?

Mr. DEAN. The obvious sharing provisions of the law.

Mr. SMITH of Florida. To circumvent North Carolina law.

Mr. DEAN. In the pure sense you could look at it that way.

Mr. SMITH of Florida. You're asking this subcommittee to continue to have the Federal Government be a partner in circumventing North Carolina law.

That's what you're asking. In a way you're asking this subcommittee to become a partner somehow in the will of the people of North Carolina being thwarted by the use of the Federal device.

And I'm asking you whether or not that's basically what you want us to do.

Mr. DEAN. Yes.

Mr. SMITH of Florida. Thank you.

Mr. HUGHES. The gentleman from Mississippi.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

It's interesting to me that in one area we're circumventing the law and circumventing the constitution, but yet we can come into Florida and North Carolina and tell them how to run their jail sys-

tems out of the court and tell them they have to have 50 square feet and all those things but we can't help local law enforcement.

I'm all for you, gentlemen. I think it's a good law and should stand the way it is.

Let me ask Commissioner Moore, if I could: Do you call yours Operation Pipeline?

Mr. MOORE. Beg your pardon?

Mr. SMITH of Mississippi. Operation Pipeline?

Mr. MOORE. There is an Operation Pipeline, but the secretary had mentioned that earlier.

Mr. SMITH of Mississippi. OK. You have one also.

Mr. MOORE. Well, we have an integrated approach. We call it an integrated approach to combating organized crime, which generally makes cases on organized crime, a lot of drug cartels and makes deposits into our Florida forfeiture and investigative support trust fund.

Mr. SMITH of Mississippi. All right.

Mr. MOORE. And from there, our State house gives us budget authority to expend those revenues.

Mr. SMITH of Mississippi. How many times is it useful for the U.S. attorney or the FBI or DEA or Customs to come in to you on those cases and take part in them; do you see that often, that they come in and do that?

Mr. MOORE. Usually it's the other way around. It's beneficial to us to engage them, again from a dollar-and-cents perspective as much as oftentimes just cast strategy, discovery depositions, et cetera.

So usually we go to the Federal people and ask to operate under their authority, a lot of times. But the other happens too, yes, sir.

Mr. SMITH of Mississippi. Would you give the subcommittee a little more insight into why you go to them, what that does for you, how that enhances your ability to go to Federal agencies and also how the U.S. attorney's office reaches out into other parts of the country.

Mr. MOORE. Sure, sure.

As we all know, gentlemen, the drug trade is not isolated down here in the State of Florida. A lot of our business takes us all over the United States and all over the world, as you would expect. Our jurisdiction, though, is limited by the State lines.

We need the jurisdiction of the Drug Enforcement Administration, the U.S. Customs, the Coast Guard. We need the tool, quite frankly, of the Federal grand jury oftentimes to pierce the veil of impunity these people work with.

So actually the drug proceeds are nice to have, and we all need to continue having it the way it is. But there are other substantive areas, procedurally, that are just as advantageous to a case as the dollar-and-cents perspective.

Mr. SMITH of Mississippi. President Bush will be here in Florida Thursday.

How many Florida department of law enforcement personnel will you have assigned to that detail?

Mr. MOORE. Well, the Secret Service, as you know, will have this detail.

We'll have the Governor down as well as providing backup to the President's entourage. We'll probably have in the neighborhood of 12 to 15 agents on duty and on call.

Mr. SMITH of Mississippi. So will you be reimbursed for any of that expense by the Federal Government for that detail?

Mr. MOORE. Not in a direct fashion, no, sir.

Mr. SMITH of Mississippi. OK. Secretary Dean, in your State of North Carolina, Operation Pipeline, have you seen any significant cases that go to DEA or the U.S. attorney's office from those traffic stops, and, if so, could you outline a couple of those major cases as a result of a State of local law enforcement effort?

Mr. DEAN. Well, we started Pipeline in 1986 when the Federal DEA came to us and asked us to do it. And we diverted our assets and our manpower to do it.

We've had multiple kilo seizures of cocaine. We've had 100-pound seizures of marijuana. We've got one case where we have about 14 kilos of cocaine, 9 growing marijuana plants, and a coral snake, which I guess was the funniest one. We've had multiple seizures of both money and assets.

We work both the northbound and the southbound lanes of that. That's something that has never been done before.

But I'll tell you, the effect it had on State law enforcement, on my highway patrol, is substantial, and they now feel like they do have a business in that area, whereas before it was up and down the highway and doing their traditional role.

I really believe the greatest benefit is not the five-point-something million dollars, but it's the desire of the local sheriffs and the local chiefs of police and the agencies that otherwise would not be in it with the Feds to get in with it and see the bigger picture.

If you don't repeal section 6077, it's not going to destroy all the good that has come down the pipe in the last 5 years because law enforcement wants to see this problem taken care of just as much as anybody else does in the country and they're going to keep trying to work together a lot closer because they see there is not the same turf problems that they thought there was before, but it is going to have an impact.

Mr. HUGHES. Would the gentleman yield to me just a minute?

Mr. SMITH of Mississippi. Sure, yes, sir.

Mr. HUGHES. I think there's some confusion about the impact of section 6077(A)(3)(B) because the joint efforts are not in jeopardy. It's the attempt to circumvent, where the fed have no role whatsoever, State law.

That was the intent.

Mr. SMITH of Mississippi. Mr. Chairman, I think what they're saying, as the gentleman said, is money that is seized in North Carolina, specifically by North Carolina law, goes to the education system.

I don't think there's any question he's doing—just like I would as a local law enforcement agency head, circumvent the North Carolina law, if I didn't have a law, to see that that money went to law enforcement, and in some of those cases that's what they're doing.

But what you're doing and what this subcommittee will do in those cases is take away the ability of local or State law enforcement agencies to work with the Federal agencies, to work with

U.S. attorneys. You take away the incentive for them to go out there and work and get those drug smugglers on Operation Pipeline or the integrated criminal apprehension program or whatever it is, and that's what the gentlemen are telling you.

We can shake our heads all we want to, but we are dealing with people that are representing local and State law enforcement agencies that are telling you how those agencies feel out there.

Mr. HUGHES. Would the gentleman yield to me?

I think, on the contrary, you force them to work together because, frankly, if the Federal Government has a role in the investigation of a particular case, then there is no problem; it's not circumventing anything because there's a Federal role.

Mr. MOORE. Mr. Chairman, if—

Mr. HUGHES. However, if you permit a law enforcement agency, where you have strictly a local case, to basically abuse the process and frustrate the will of the people of that State, that we prohibited in section 6077(A)(3)(B).

That's what you have, in a bag.

Mr. MOORE. Mr. Chairman, if I may, it's a—

Mr. HUGHES. I thank you, gentlemen, for yielding.

Mr. MOORE [continuing]. Complex issue.

My understanding of the law is not the same as yours. I'll certainly defer to you because you gentlemen passed it.

But let me just read a paragraph out of a letter that I received from Mr. Tom Cash, who is head of DEA for the State of Florida and parts of the Caribbean, addressed to me.

It reads—a little preamble about the amendment:

"These newly legislated changes in the sharing provisions of the Controlled Substance Act will preclude the transfer of property in many forfeiture cases after October 1, 1989.

"The following are but a few examples—that's highlighted—of situations in which equitable sharing under the Controlled Substance Act may be curtailed:

"First, sharing will be precluded in those cases where the burden of proof to effect a forfeiture under State law is greater than required under Federal law."

Now, that doesn't make any difference if it's adoptive or if it's otherwise. That's referring, as I read this, to the joint efforts we're talking about here.

"Second, if State law prohibits the forfeiture of certain kinds of property, for example, real estate or community property—and this is where we get real interested in the State of Florida—the assessed property, when forfeited under the Controlled Substance Act, may not be subsequently shared with an otherwise eligible State or local enforcement entity.

"Third, if applicable State law mandates that forfeited property go to the school fund or to assist State road improvement projects rather than to recognize law enforcement activity, such sharing will be prohibited," et cetera, et cetera.

He goes on and he just says he's bringing this to our attention to take whatever action we deem appropriate.

So that's the position from which I'm operating and a lot of the other law enforcement people around the State and around the country are operating.

Mr. HUGHES. Will the gentleman yield?

That sounds like what we do once in a while at budget time. We let people know we're going to close down the Washington Monument to get attention, and that sounds like what Mr. Cash did.

Mr. MOORE. Well, I don't think that Mr. Cash——

Mr. HUGHES. He obviously got your attention.

I don't know where he got that information which is incorrect but he'll be able to explain that after a while because I think he's on one of the subsequent panels.

Mr. MOORE. Well, I was trying to clear the point, because that's where——

Mr. HUGHES. We'll hear from Mr. Cash after awhile.

Mr. SMITH of Mississippi. LECC in the southern district of Florida, how does that work down here, Commissioner Moore?

Mr. MOORE. Since we have a new U.S. attorney in the southern district, as you know, Mr. Dexter Lehtinen, and we're getting organized and prepared to reinstitute the LECC meetings, I can talk more appropriately about the one that we've had a real strong commitment up in the northern district by the U.S. attorney, Mike Moore, in terms of having regular LECC meetings.

We haven't had those in the middle district, quite frankly, like we should have. But I'm encouraged, by Mr. Lehtinen's appointment down here, that we're going to certainly continue to recognize the need and the importance of those kind of meetings and get back to them. They're worth their weight in gold because they do the very same thing we're talking about here but they do it face to face.

Mr. SMITH of Mississippi. Same thing we're talking here with the Law Enforcement Coordinating Committee are tools to give that working relationship between local, State and Federal law enforcement agencies.

North Carolina, Mr. Dean.

Mr. DEAN. LECC's have been in the last 3 or 4 years very active. Each district has them, the eastern, middle and western.

I have participated in the eastern and middle districts more than the western just because of the distance involved. Those are quite active.

Mr. SMITH of Mississippi. Would I be characterizing it right to say before asset forfeiture and sharing that State and local law enforcement looked upon Federal agencies as simply coming to take the information, the case files and taking always from State and local law enforcement and never giving; is that a true assessment of State and local law enforcement and the Federal Government prior to this program?

Mr. DEAN. In North Carolina that's 99.6 percent true.

Mr. SMITH of Mississippi. In Florida, Commissioner Moore.

Mr. MOORE. I've definitely heard that characterization of the situation, Mr. Smith.

Mr. SMITH of Mississippi. In the last several years how has asset forfeiture and sharing changed that perspective and changed that working relationship with the DEA, with Customs, with FBI, and Coast Guard?

Mr. MOORE. Dramatic improvement. To use an overused cliché, "they put their money where their mouth was," and we didn't get

a lot of rhetoric about "we want to help you, we want to help you" and then the press conference would go down and we're not there.

It's been a tremendous change, but again not just Federal asset sharing but the fact, as the Secretary mentioned earlier, that we've got that relationship and that communication and coordination going.

But what the asset sharing did and still does, is open those doors; you know, it's a good conversational piece to get started.

Mr. SMITH of Mississippi. Mr. Dean.

Mr. DEAN. Ditto. That's exactly the sentiment, and I can't add to it.

What you really need to understand is that we are understaffed in the PD's and sheriff's departments at the State level and at the Federal level.

Where are you going to put your people?

If the Federal Government expects the DEA, the 14 agents state-wide, to have an impact, it's going to be nix.

If those 14 agents can, by using asset forfeiture as its hook, get the Brunswick County Sheriff's Department involved, they're going to multiply their effect.

That's what they've done with it. That's really what they've done with it.

Mr. SMITH of Mississippi. Yes, sir.

Mr. PAGE. Mr. Smith—

Mr. SMITH of Mississippi. Yes, sir.

Mr. PAGE [continuing]. The value in training and experience to the smaller agencies, real small agencies, has been absolutely tremendous. The detectives in the smaller agencies, the officers in the smaller agencies, would never have been involved in some of the seizures and some of the investigations that have been going on had it not been for that cooperative effort.

Mr. SMITH of Mississippi. In a 21-officer agency, what would it do to that agency for the law as it now stands or is changed or if we took away asset sharing, the ability to do that with those law enforcement agencies; what effect would that have on morale and the activities and the coordination with other agencies?

Mr. PAGE. From a proficiency standpoint, smaller agencies sometimes, even though Florida has one of the best training programs, State programs, in the country, have difficulty sending their men to training programs. From that learning process alone, it is in my estimation devastating.

One of the things that I was concerned about in getting involved in small departments was training, training, training, training.

The experience and training that these men are offered is unbelievable.

I think it will be very detrimental to the smaller agencies.

Mr. SMITH of Mississippi. Commissioner Moore, you mentioned that you go many times to the U.S. attorney's office for the prosecution side.

Are there a lot of cases that you can't get prosecuted adequately on the local level, or is that going to the U.S. attorney because of the expertise, the involvement of the Federal agencies and the ability to reach out and have investigative grand juries and other things that the Federal Government has?

Mr. MOORE. It's primarily a jurisdictional issue, Mr. Smith, because again a lot of the organizations we're going after operate way outside the bounds of the local State attorneys' ability to prosecute.

Now, here in the State of Florida we are in a leadership role in that we have a statewide prosecutor; we have a statewide grand jury capability as well.

But here again we're limited by the type of crime that we're going after and the jurisdictional considerations that present themselves.

I might mention just as a point of consideration, I kind of think the Federal Government is getting a good deal.

You notice I said our share here in the State of Florida last year was some \$3.6 million.

Now, that's a lot cheaper than the Federal Government deploying another, what would be equivalent to, probably 8,000, 10,000, 12,000 men on the street, because that's probably how many men in local law enforcement agencies around the State of Florida, out of our 30,000 plus, that are involved directly or indirectly in the drug business.

So I submit it's probably a pretty good business practice, notwithstanding the federalism issue, on behalf of the Federal Government.

But on the prosecutorial question, expertise, jurisdictional considerations.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. SMITH of Florida. Thank you, Mr. Chairman.

Mr. Page, I want to say, first of all, on behalf of the people in this country and in the whole south Florida area that we're very proud of what Crime Stoppers does, and they've been singularly effective.

I happened to watch "Most Wanted" last night. John Walsh was originally, as you know, a constituent of mine. And I think it has had a tremendous effect in this area, not only in being able to catch criminals but in just raising the consciousness of people to get involved in the law enforcement process.

Number two, from our perspective I don't think that the money that's going to keep flowing from the Federal Government is ever going to stop in that regard, as long as they keep making the cases, and therefore the money that you get as a result, although you don't get it directly, I think will keep flowing as well.

I just want to thank, on behalf of everybody, including this subcommittee and the chairman, all the people in Crime Stoppers that do such a good job.

I'm happy to see that there is so much seizure of assets and forfeiture connected with the already good job that's being done in Crime Stoppers of catching the crooks. That's an important issue too for us.

As Commissioner Moore indicated, so many of the crimes in this State, about 65 percent, are drug related. In any event, that means when you're catching criminals you're invariably, two-thirds of the time, getting involved in the area of drugs, and there's going to be some assets to be seized and forfeited.

So I want to congratulate you.

Mr. Dean, I hate to say this, but I'm a little bit offended by this attitude that the people of the United States somehow can be used to thwart the role of the people of North Carolina.

I would be the same if the people of Florida had decided in their legislature to put 100 percent of this money into some form of otherwise legal State operation—roads, schools, whatever it would be, build a dam.

If that's what they decide to do with that money that's done on the basis of what State agencies themselves do, I don't see why the Federal Government should be in a position to try to tell them that what they said didn't have any effect and it's what the police want that's more important.

Nobody has supported the police agencies more than me over these many years, and I wrote the law in Florida.

But I'll tell you, I'm a little surprised that you would come in here and ask us, on operations which are not jointly done but on operations which are solely State operations, to allow the process to continue of those local operations netting seized or forfeited assets to turn those assets over to the Federal Government so that they can be processed and then turned back to the State of North Carolina police agencies in what is otherwise derogation of the State law.

That's all it is. That's what happened in California, and that's why we changed the law.

Nobody wants to see the police agencies turned off from cooperation, although I'm a little bit, at the very least, doubtful of the motives of the police agencies that you would ascribe to them; and that is, that they have to have the door opened somehow by this oil known as money or seized assets being squeezed into an otherwise stubborn hinge. That surprises me.

For instance, your Operation Pipeline, couldn't have been done by the State and local agencies without the DEA calling you on the phone and saying, "Would you do this for us;" wouldn't they have done it, anyway; aren't they interested in catching the coke that's going down northbound on the highways of North Carolina and the dirty money going southbound on the highways of North Carolina, or is that just something that you get cooperation on when the Federal Government decides to make a phone call?

I'm a little surprised.

I'll tell you what: Do you know how many Floridians have been caught in North Carolina and dealt with in terms of drugs?

I know that people are interested in it. I know police are making significant inroads.

The problem seems to me to be one of interpretation by maybe North Carolina itself and the DEA, Mr. Moore.

Personally, if I were reading this letter—and I never saw this before—I'll tell you what: The burden of proof in my estimation hasn't got anything to do with whether or not this is going to be money that could be or could not be shared with the locals.

Mr. MOORE. I'm glad to hear you say that.

Mr. SMITH of Florida. That's ridiculous. We never contemplated that, ever, under any circumstances. What that's got to do with it is beyond me.

And if this came from the local people, then their legal counsel needs to take a second look, and if it came from Washington down to all the local racks, then the people in Washington need to—that's the DEA legal counsel—review this.

But I'm a little surprised.

My understanding is that the Justice Department is aware that this law has a very limited application; it's not going to impinge on joint investigative cases or cases made together, and it's not going to impede individual cases made within their own States.

It's just that where those State cases result in assets being seized that the Federal Government is not going to be a partner in processing that seizure and forfeiture and then returning the money directly to local police agencies where the State law says otherwise.

That's what this law was intended to do and nothing else.

If you think that we have cut off somehow your ability to do business on that basis, not on joint operations because it doesn't affect joint operations—I believe Justice has already said that that doesn't happen—then I'm a little disappointed in the status of law enforcement.

Mr. DEAN. Congressman Smith, let me say this: The prohibitive section of the law is a constitutional amendment passed long ago.

In 1986 the general assembly passed a forfeiture statute, which law enforcement attempted to use. That is currently before the State supreme court, but the previous appellate court rulings, which are critical for the supreme court, have held that State RICO law unconstitutional as it applies to the 1868—

Mr. SMITH of Florida. Well, wait a minute now.

You use RICO to cover assets seized at the time of arrest, carrying contraband, for instance?

I don't believe RICO covers that situation.

Mr. DEAN. It's the State RICO law, not the Federal.

Mr. SMITH of Florida. No, no, no, no, no, no, no. I understand.

But State RICO, which in a lot of cases tracks Federal RICO, doesn't have anything to do with a drug bust where a car is used to carry drug paraphernalia or drugs. That's seized under the normal situation of an arrest—

Mr. DEAN. What I'm saying—

Mr. SMITH of Florida [continuing]. Incident to a local arrest.

What has that got to do with RICO?

Mr. DEAN. The North Carolina law provided for seizure of assets and forfeiture of those assets, with some of the money going to one place and some of the money going to law enforcement.

Mr. SMITH of Florida. Where does it go? Does some of it goes to law enforcement?

Mr. DEAN. Under the State law, yes, that we passed in 1986.

Mr. SMITH of Florida. But they're not operating under the State law?

Mr. DEAN. We operated under it until the superior court and the court of appeals started saying that we could not, that all that money would go to the school fund, not to law enforcement on a shared basis.

What we are now in a position in, in North Carolina, is to amend the constitution to give validity to the State law that was passed in

1986, "law" meaning legislation passed as opposed to constitutional provision.

That is going to take some period of time in North Carolina. It will certainly take well past October the first.

Mr. SMITH of Florida. So right now you're in a position where assets that are seized and which go into forfeiture and ultimately wind up as cash one way or another or assets, some of them, are all remitted to the school fund?

Mr. DEAN. Correct.

Mr. SMITH of Florida. Under a court ruling that somehow suspended the operation of the 1986 law.

Mr. DEAN. Well, it held unconstitutional that portion of sharing in the 1986 law, yes.

Mr. SMITH of Florida. So right now when we adopt at the Federal level your cases and take those assets and sell them and remit to you the cash, to the police agencies, we're in violation of the appellate ruling in North Carolina.

Mr. DEAN. No. Because you're in the Federal system.

What I'm really—

Mr. SMITH of Florida. Oh, no. I understand. I understand that.

What we're doing is something that the appellate ruling said shouldn't be done within the State of North Carolina; correct?

Mr. DEAN. But—

Mr. SMITH of Florida. Within the State of North Carolina; is that correct?

Mr. DEAN. I suppose, Congressman.

But what we're really saying is that we want to have some time; if we have some time, perhaps we can change our constitutional provision, but without it we can't.

Mr. SMITH of Florida. Mr. Moore, you have a problem in this State with real estate, according to your testimony.

Mr. MOORE. A potential problem, Mr. Smith.

Mr. SMITH of Florida. A potential problem based upon the letter from the DEA.

Mr. MOORE. Right. And conversations with their representatives.

Mr. SMITH of Florida. And conversations with representatives of DEA.

Mr. MOORE. Yes, sir.

Mr. SMITH of Florida. If I were to tell you that the Justice Department says that there won't be any problems—

Mr. MOORE. I'll be glad to hear that and glad to hear that on the record. In fact, I'm glad to hear all of this clarifying right now.

Mr. SMITH of Florida. We were today too because the letter from the DEA surprised us.

Mr. MOORE. Yes.

Mr. SMITH of Florida. Do you believe that there would, at this State today where we've come, be a significant drop in cooperation if in fact the law meant what the DEA says it meant?

How much of the State cases are being made where the seized assets, are then turned over to the Feds for forfeiture and then for return to the State?

Mr. MOORE. A small percentage.

Mr. SMITH of Florida. Isn't that a small percent?

Mr. MOORE. A small percentage of my cases in my department—

Mr. SMITH of Florida. Right.

Mr. MOORE. Congressman Smith.

I'm not sure I could generalize that to the 300-plus local law enforcement agencies in the State, but a small percentage in my agency.

Mr. SMITH of Florida. And suppose a State case is made from a local law enforcement agency, the Broward County Sheriff or the Hollywood Police Department, and then it's turned over to the Feds for prosecution.

Would you consider that a joint case?

Mr. MOORE. Yes. If they had standing to some extent in the investigative portion of the case, yes, and then bring in the Feds.

Mr. SMITH of Florida. Then if there was a sharing of assets seizure and forfeiture, that really wouldn't be a problem either, would it?

Mr. MOORE. Well, I'd like to think it would not be, and what I hear you say today is it would not be.

But when I read that letter, I get a different understanding, Congressman Smith.

Mr. SMITH of Florida. Well, I can understand that.

And I have sympathy for you and you, Mr. Dean. Don't get me wrong. It's not a question of not wanting the police agencies in North Carolina to get what they need and to prevent them from being more interested in helping on this problem with the Fed or on their own.

Our problem is the position you put us in as testifying—and I commend you for being forthright. It's not that we didn't want you to be.

You put us in the position of saying, "OK, then the Federal Government has a role to play in circumventing the law in North Carolina," which basically is what we're doing.

That's what was happening in California when we found out the outrageous numbers of dollars that were being channeled through the Federal Government in derogation of what would otherwise have been State law controlled dollars.

So until we can determine, Mr. Chairman, from the rest of the panels what needs to be done or what their interpretation is, I guess these folks are just going to have to be kind of in suspension like us because I don't think we had any intention of doing that in this when we passed this change.

Thank you.

Mr. HUGHES. The gentleman from Mississippi.

Mr. SMITH of Mississippi. Just one quick comment, Mr. Chairman: It appears to me that the Federal Government comes in on States' rights and tramples States' rights where it's important to them, that they can come in and tell me, when I was the sheriff, that you have to have 50 square feet of space for a prisoner and you have to give them a law library and you have to do all other things, but when it comes to helping law enforcement, then we've got a problem about States rights or federalism, you know.

I just disagree with that. I think it was a good law the way it was.

I certainly commend the gentlemen for coming here today, all of them, and I want to support them in any way that I can because I think it's very important for local, State, Federal relations and for the true war on drugs.

Thank you, Mr. Chairman.

Mr. HUGHES. I got the impression the first time around that the gentleman was a little concerned about the Federal regulations in prison space. I got the message.

I thank you. I thank you for your testimony.

We share your concern. Frankly, I think that it makes abundant good sense to encourage law enforcement to work together, and we certainly want to do that, and we're very proud of the forfeiture law.

When I think of all the laws that we've written over the years, I am most proud of our forfeiture legislation. It's been model legislation.

I'd like to see States, wherever the Feds do not have involvement, to follow suit. I think it makes abundant good sense to encourage law enforcement by sharing a significant portion of forfeited funds with law enforcement agencies.

While that would be my hope and my desire, I'm not so sure that the Feds have responsibility for shoving that down the States' throats. That's something for them to decide.

But we're going to see if we can't sort out just what problems might surface as a result of this section 6077 and see if it needs some modification to address problems that were not contemplated, I'm sure that we'll be very happy to look at that.

Thank you for your testimony today.

Yes, sir, Mr. Secretary.

Mr. DEAN. If you could just put it off to give us a chance to change our constitution.

Mr. HUGHES. I got that message, Mr. Secretary.

Thank you very much. We appreciate your testimony.

The next witness today is Gene L. Dodaro, who is Associate Director for Management Reviews in the General Accounting Office's General Government Division.

Mr. Dodaro is a graduate of Lycoming College in Pennsylvania and joined GAO in 1973. Since then he has been involved in various issues, including major block grant programs to the States.

Among his many current responsibilities, he is in charge of GAO's productivity area and financial integrity for the Department of Justice and the Department of Treasury.

Welcome, Mr. Dodaro, to the Subcommittee on Crime once again.

You're accompanied today with some other members of the General Accounting staff. We hope that you'll introduce them.

We have your statement, which without objections will be made part of the record.

And you may proceed as you see fit.

Welcome.

STATEMENT OF GENE L. DODARO, ASSOCIATE DIRECTOR, MANAGEMENT REVIEWS, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY SEBASTIAN CORREIRA, JAMES BLACK, ROGER LIVELY, AND DICK MORVILLO

Mr. DODARO. Good morning, Mr. Chairman and members of the subcommittee.

We are pleased to be here today to discuss ways that we believe millions of dollars in seized assets can be moved faster by the Justice Department and Customs Service.

With me today is the team who headed our work in this area.

To my immediate left is Mr. Sebastian Correia, project director for the team.

To my right is Mr. Jim Black.

At the easel are Roger Lively and Dick Morvillo.

Our objective was to determine if forfeitures could be processed quicker without adversely affecting individuals' due process rights. We concentrated on cash and real property.

As can be seen from this chart, they account for the largest segments of the seized asset inventory. Cash at 36 percent and real property at 28 percent combine to represent 64 percent of the \$1.1 billion in inventory as of December 1988.

We identified several actions that can be taken to process seized assets quicker.

First, time could be saved if the law is changed to allow all uncontested cash seizures to be forfeited administratively. Presently most seizures must be handled by the courts, whether the seizure is contested or not.

Second, cash, once forfeited, should be more promptly transferred to the asset forfeiture fund, where it then could be spent. Inordinate delays are occurring.

Finally, to minimize the lengthy processing of unprofitable real property, Justice needs to better comply with its preseizure planning requirements and establish a quick release policy to return property to innocent coowners and lienholders when there is little or no forfeitable interest.

Let me explain each of these issues more fully.

First, seized cash: The amount of seized cash deposited in Treasury holding accounts has increased dramatically. It has jumped from \$49 million in October 1986 to \$362 million at the end of 1988.

This money must be administratively or judicially forfeited to the Government before it can be spent.

Cash seizures of a \$100,000 or less are forfeited administratively unless a claimant comes forward to contest the forfeiture. If contested, the seizure is resolved by a judicial proceeding.

Cash seizures of more than \$100,000 are required by law to be resolved judicially.

Our analysis showed that most seized cash is forfeited judicially, even though no one comes forward to contest the seizure. Of the \$124 million in forfeitures we reviewed, 82 percent was judicially forfeited. As shown in the chart, 89 percent of this amount was not contested.

Moreover, judicial forfeitures take longer to complete than administrative forfeitures.

As shown in this next bar graph, judicial forfeitures took an average of 13 months compared to the average of 8 months for the administrative forfeitures.

So we have a situation where by the current law most of the forfeitures have to go through the judicial process, which takes a longer period of time, even though in the vast majority of the cases, almost 90 percent of the time, no one comes forward to contest the seizure.

Consequently, we think time can be saved if the law is changed to allow uncontested cash seizures of any amount to be forfeited administratively. This would not affect individuals' due process rights because contested cases could still be resolved judicially.

In addition, this legislative change would eliminate such cases from the district courts' and U.S. attorneys' workloads. We discussed our recommendations with four judges who handle forfeitures and with Justice and Customs' attorneys, and they all agreed that the change would be beneficial.

And this would basically allow all the processing to be done just in the district offices by Customs and the Justice Department. It would not involve engaging U.S. attorneys in the process at all.

Our second point concerns the transferring of cash from the Treasury holding account to the asset forfeiture fund.

After forfeiture, cash should be promptly transferred to the forfeiture funds because only then is it available for sharing with State and local law enforcement agencies or for Federal spending.

Justice and Customs policies, however, are silent on how long such transfers should take.

As shown in the chart, 69 percent of the money was switched from holding accounts into fund accounts more than 30 days after forfeiture.

We judgmentally used 30 days as a more than reasonable time to transfer the money between two Treasury accounts.

Customs cases took an average of 102 days, and Justice cases an average of 80 days. Transfers range from the day of forfeiture to over 4 years after forfeiture.

To ensure that the cash is transferred timely and that large cash forfeitures receive priority, we recommend that the Attorney General and the Secretary of the Treasury take steps to transfer forfeited cash of \$100,000 or more within 7 days after forfeiture and all other forfeited cash within 30 days after forfeiture.

Agency officials that we have discussed this with agreed that these are reasonable time frames for processing the money. So we think this will do a lot to speed up the money in the pipeline and move it from that holding account, where it stays once it's seized, into the asset forfeiture fund. Then the money can be shared with State and local authorities or be available for Federal expenditures.

Our final point concerns the forfeiting of real property.

As with cash, real estate seizures have significantly increased. The number of real properties undergoing processing has grown from 209 in 1984 to 1,883 in 1988.

Our earlier reviews pointed out that forfeited properties contributed little to the forfeiture fund and were held for long periods prior to disposal. The forfeiting and disposing of real estate continues to be time-consuming and unprofitable.

For example, we reviewed all 12 real estate properties disposed of in Florida, which had an initial seizure value of \$1 million or more. These properties with a total seizure value of \$33.4 million realized \$2.5 million or 7 cents on the dollar as you can see from this chart.

One of the issues that was raised this morning is why is this occurring.

The next visual shows that much of the difference between the initial seizure value and net proceeds was due to the establishment of overstated value for the property when it was seized and the high liens that are held on this property.

While we might say we have x million dollars in real property seized, that figure is grossly overstated because of the overstatements on the value of the property when it's seized and also because it does not take into account any liens or other obligations on that property which need to be resolved and considered.

This is occurring, we believe because Justice personnel are not always complying with preseizure planning requirements to find out through a title search how much equity the defendant had in the property and, through a professional appraisal, how much the property was worth.

Also the title industry is reluctant to insure those forfeited properties because of concerns over quality of the Government's title.

And we believe the Attorney General needs to take steps to assure that preseizure planning requirements are complied with by assistant U.S. attorneys. Consideration should be given to including the estimated forfeitable interest in civil complaints for forfeiture as a means of assuring that the financial merits of the case are known before judicial proceedings begin.

Also in those cases where it's likely that there's little or no forfeitable interest in the property, we think that Justice should establish a quick-release policy to return the property to innocent coowners and lienholders as soon as possible, rather than continuing to carry it in its inventory.

Finally, the law should be changed to assure the title industry that the Government guarantees passage of clear title for these properties.

Justice headquarters officials acknowledge that title searches and professional appraisals need to be done before a seizure when possible and certainly within 60 days after seizure.

Justice officials also said they will propose a legislative amendment to specifically state Justice's authority to warrant clear title to subsequent purchasers of forfeited property.

This complete my prepared remarks.

We would be happy to answer any questions.

Mr. HUGHES. Thank you very much, Mr. Dodaro, not just for the presentation but for your work over the last few years in attempting to help us focus in on some of the administrative and other problems in the implementation of the forfeiture bill.

[The prepared statement of Mr. Dodaro follows:]

PREPARED STATEMENT OF GENE L. DODARO, ASSOCIATE DIRECTOR, MANAGEMENT
REVIEWS, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

SUMMARY OF STATEMENT

The House Subcommittee on Crime asked GAO to identify opportunities to save time and money in the forfeiture and disposal process for assets seized from criminals. Forfeited cash and the proceeds from sales of forfeited property are used to help finance Justice's and Customs' seizure programs and provide additional funds to combat the drug problem and meet other federal needs.

GAO identified several areas where action should be taken:

- Time could be saved if all uncontested cash seizures were forfeited administratively. At the end of 1988 about \$400 million was undergoing forfeiture proceedings. Cash seizures over \$100,000 must be forfeited judicially. However, in 89 percent of such forfeitures, no one claimed ownership of the money. Changing the law, along with implementation of our other recommendations, could shorten processing time from an average of 13 months to 4 months. Due process rights are not affected because contested seizures would continue to be resolved judicially.
- Forfeited cash was not always promptly transferred from the holding accounts to the Asset Forfeiture Funds, where it can be spent. Of the \$120.9 million in closed cases reviewed, \$83 million (69 percent) was not transferred within 30 days of forfeiture. We judgementally used 30 days because it is a more than reasonable period to make a cash transfer between two Treasury accounts. The Attorney General and the Secretary of the Treasury should ensure that all cash is transferred to an Asset Forfeiture Fund within 30 days of a forfeiture order and within 7 days if the amount is above \$100,000 because large amounts deserve priority. Agency officials agree these are desirable timeframes.
- Disposal of forfeited real estate continues to be time-consuming and often unprofitable for the agencies. For example, twelve properties in Florida with an initial value of \$33.4 million realized \$2.5 million, or 7 cents on the dollar. Justice personnel were not complying with agency pre-seizure planning requirements to find out through a title search how much equity the defendant had in the property and through appraisal how much the property was worth. Also, the title industry is reluctant to insure these properties. As a result, seized real properties are held for long periods of time. Where the defendant has low or nonexistent forfeitable interest in a property, Justice should establish a quick release policy to return the property to innocent co-owners or lienholders. Finally, the law should be changed to assure the title industry that the government guarantees clear title for these properties.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our review of Customs Service's and the Department of Justice's processing of seized assets, which was undertaken at the Subcommittee's request. The Subcommittee asked us to determine if forfeitures could be processed faster without adversely affecting individuals' due process rights.

ASSET FORFEITURE: A BILLION
DOLLAR PROGRAM

Forfeiture law allows the government to take property, including cash, that has been illegally used or acquired without compensating the owner. In cases of \$100,000 or less, forfeiture can be handled administratively by the seizing agencies such as the Drug Enforcement Administration and Customs Service. Generally, this proceeding is used on smaller cases involving cars, boats, planes, and other types of property such as jewelry and artwork. For amounts above \$100,000 and for all real property, the cases are handled judicially by U.S. Attorney offices and the courts. Also, cases under \$100,000 are handled judicially when the defendant or other involved parties request it.

Identifying, seizing, and forfeiting assets of drug traffickers and organized crime figures has become a key part of federal efforts to curb such crime. The Comprehensive Crime Control Act of 1984 expanded the government's seizure authority

and established Asset Forfeiture Funds to finance the management and disposal of seized and forfeited assets.

The volume of seized assets, including cash, real estate, cars, boats, and airplanes has increased sharply, heightening the importance of good internal controls and oversight in properly managing and disposing of seized and forfeited assets. Today, the program is a \$1.1 billion dollar operation -- an increase of 3,200 percent since 1979 when on-hand inventories were \$33 million.

Both the Customs and Justice Asset Forfeiture Funds are used to finance program expenses such as those incurred in the care, custody and disposal of seized and forfeited assets, payments of liens and mortgages and purchases of evidence/awards for information related to asset seizure. Forfeiture proceeds are also shared with state and local law enforcement agencies that participated in the seizures.

Funds not used for program operations are used to finance various federal programs such as drug enforcement. Justice, with congressional approval, used part of its Fund profits to finance prison construction and for additional U.S. Attorney resources -- using criminals' money to finance the prosecution of additional forfeitures. Customs is required by law to transfer unobligated funds in excess of \$15 million at year-end into the

U.S. Treasury General Fund, where the money can be used for other federal programs.

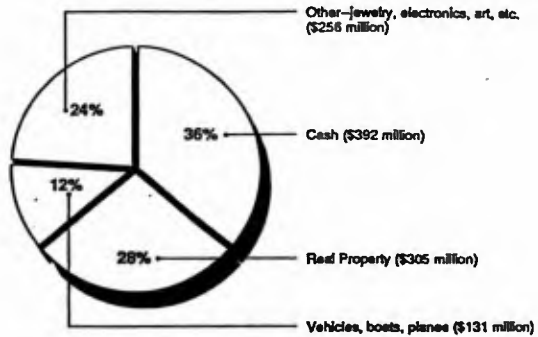
Additional revenue and expenditure information for the Funds is included in appendix I.

OBJECTIVE, SCOPE, AND
METHODOLOGY

By letter dated April 11, 1988, the Subcommittee requested that GAO determine if seized assets could be forfeited faster. The benefits of faster forfeitures are that (1) funds could be made available faster to fight the drug problem at federal, state, and local levels, (2) funds could be made available for other federal programs through transfers to Treasury's General Fund Account, and (3) case processing backlogs could be reduced in processing growing seizure volumes.

We concentrated our work on cash and real property because, as shown on the following chart, they account for the largest segments of the seized asset inventory. Cash and real property, combined, represented 64 percent of the \$1.1 billion inventory as of December 1988.

Composition of Justice's and Customs'
Seized Asset Inventory as of
December 1988: \$1.1 Billion



We also focused our review on judicial forfeitures because they take longer than administrative forfeitures and they represent larger value cases. Our work was done in the five judicial districts with the highest dollar value in total open cases, in either seized cash and/or real property. These districts were: the Northern and Southern Districts of Texas, the Middle and Southern Districts of Florida, and the Central District of California.

Our review included agencies principally involved in seizing and forfeiting assets: U.S. Customs Service (Department of the Treasury) and the Department of Justice's (1) U.S. Marshals Service, (2) Drug Enforcement Administration, (3) Criminal Division, and (4) Executive Office of U.S. Attorneys. We also interviewed four judges with experience in forfeiture cases.

We used both property management and forfeiture case records to identify all asset seizures pending as of December 15, 1988, and cases closed during the period October 1, 1985, through December 15, 1988. For detailed analysis of large real property and cash seizures undergoing judicial forfeiture in the five districts, we used uniform data collection instruments. We extracted information such as dates when key processing steps were done and type and amount of forfeiture. We selected the largest cases by dollar value and included both open and closed cases. See appendix II for cases reviewed.

MOST CASH CAN BE
FORFEITED FASTER

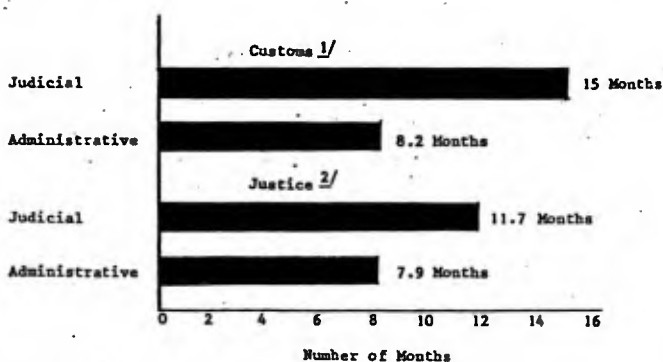
As of December 1988, \$362 million of seized cash was in a Justice or Customs holding account undergoing forfeiture.¹ Until the money is forfeited and transferred to one of the Forfeiture Funds, it is essentially "frozen" -- that is, it cannot be used to finance federal, state, and local programs.

¹Another \$30 million was either (1) in interest-bearing accounts in financial institutions, (2) held as evidence for a criminal proceeding, or (3) a recent seizure in agency vaults awaiting a determination as to evidentiary need in a criminal proceeding.

The amounts of cash undergoing forfeiture proceedings have increased dramatically. In October 1986, \$49 million was being held; in July 1987, the amount had increased to \$129 million; and by December, 1988, it had reached \$362 million, for a total growth of about 600 percent in the last 2 years.

Our review of 1,125 closed Customs and Justice cases showed that judicial forfeiture takes longer than administrative forfeiture--about 7 months longer at Customs and 4 months longer at Justice. Customs and Justice judicial forfeitures average 15 and 12 months respectively while administrative forfeitures average about 8 months at both agencies.

How Long Does It Take to Forfeit Cash?



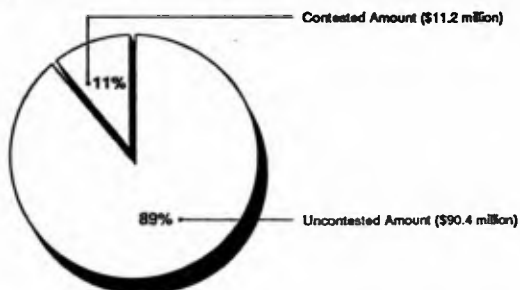
^{1/} Fiscal years 1981 through 1988

^{2/} Fiscal years 1986 through 1988

Our review shows that most of the cash pending forfeiture will be forfeited judicially even though no one comes forward to contest the forfeiture. For example, our analysis of 1,125 Justice and Customs closed cases totaling \$123.9 million disclosed that most of the cash had been forfeited judicially. About 82 percent (\$101.6 million) went through a judicial proceeding and 18 percent (\$22.3 million) through an administrative proceeding. The bulk of the money was forfeited judicially because of the legal requirement that cash over \$100,000 must go through a judicial proceeding.

As shown in the following chart, 89 percent of the judicially forfeited cash resulted in a default judgement by the court. That is, the forfeiture was not contested by anyone.

Most Judicial Cash Forfeitures Were
Uncontested



Because judicial forfeitures take an average of 13 months compared to 8 months for administrative forfeitures, we believe the law should be changed to allow uncontested cash seizures of any amount to be forfeited administratively. In addition to quicker forfeitures of most cash seizures, the change would eliminate uncontested cash seizures from district courts' and U.S. Attorney Offices' workload.

We discussed our proposal with four judges who handle judicial forfeitures and Justice/Customs attorneys--all of whom agreed with it. Due process rights of individuals are not affected by the change in law because contested cases would continue to be resolved judicially. Furthermore, agency officials said uncontested cash seizures of \$100,000 or more should be processed to deposit into the Forfeiture Fund within 120 days of seizure and they would take steps needed to achieve that goal.

GAO RECOMMENDATIONS

We recommend that Congress revise existing law to allow Customs and Justice to administratively forfeit uncontested cash seizures. Specific language needed is:

- For Customs, revise 19 U.S.C. 1607(a) by adding "such seized merchandise is monetary instruments".
- For Justice, revise 28 U.S.C. 524(c) by adding similar language.

To ensure that large uncontested cash seizures are processed in a timely manner and adequately monitored, we recommend that Congress amend P.L. 100-690, Sections 6072 and 7364 to require that annual forfeiture fund reports to Congress include data on uncontested cash seizures over \$100,000 which are not transferred to the forfeiture fund within 120 days of seizure.

We recommend that the Attorney General and the Secretary of the Treasury

- Ensure that, upon enactment of appropriate legislation, cash cases over \$100,000 which have not had complaints for forfeiture filed with the court are reviewed for conversion to administrative forfeiture.
- Establish priority processing of uncontested administrative cash seizures over \$100,000.

FORFEITED CASH SHOULD BE
TRANSFERRED FASTER

After forfeiture, cash should be promptly transferred from the holding accounts to the Forfeiture Funds because only then is it available for sharing with state/local law enforcement agencies and federal spending. Justice and Customs policies are silent on how long such transfers should take.

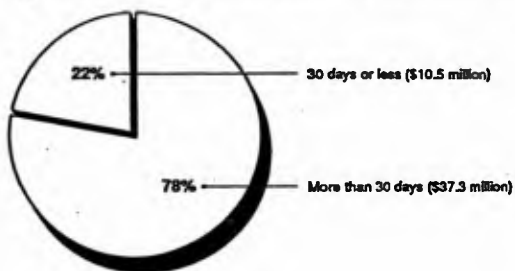
As shown in the following charts, our examination of 1,125 closed administrative and judicial cases revealed that 78 percent of the Customs money and 63 percent of the Justice money was

switched from holding accounts into Fund accounts more than 30 days after forfeiture.

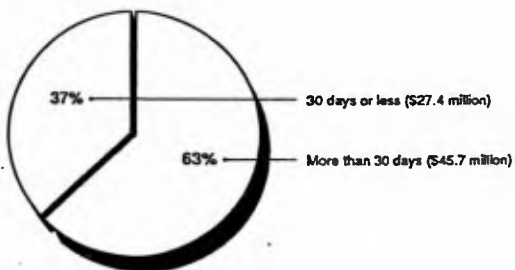
Lengthy transfer periods occurred in both agencies and in administrative and judicial forfeitures. Customs cases took an average of 102 days, and Justice cases an average of 80 days. For Customs, the range was from the day of forfeiture to over 4 years after forfeiture; for Justice the range was from 1 day to 1,015 days, or 2.8 years after forfeiture.

Most Cash Not Transferred to Forfeiture Fund Within 30 Days After Forfeiture

CUSTOMS:



JUSTICE:



We believe that cash should be transferred promptly after forfeiture but recognize that agency personnel have other work responsibilities. We judgementally used 7 days for cases \$100,000 or more and 30 days for cases under \$100,000 as reasonable timeframes to transfer cash between two Treasury accounts. Agency officials responsible for transferring cash agreed these were reasonable timeframes.

GAO RECOMMENDATION

To ensure that cash is transferred timely and large cash forfeitures receive priority, we recommend that the Attorney General and the Secretary of the Treasury transfer

- forfeited cash of \$100,000 or more from the holding account to the Asset Forfeiture Fund within 7 days of forfeiture.
- all other forfeited cash from the holding account to the Asset Forfeiture Fund within 30 days of forfeiture.

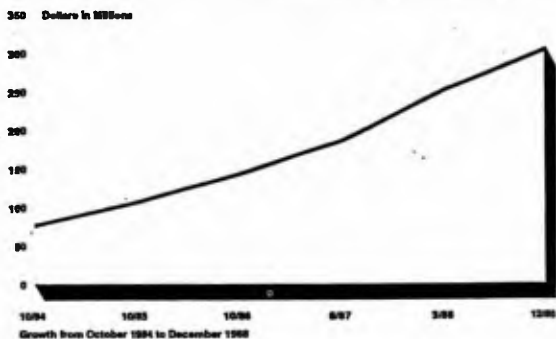
PROCESSING OF REAL ESTATE SEIZURES NEED TO BE IMPROVED

Real estate seizures involving diverse properties such as residences, marinas, farms, and time-share condominiums are more complex and require more staff time than do cash seizures. Third-party interests (lienholders and co-owners) have to be resolved, and real properties must be maintained and then sold under varying state laws regarding real property title transfer.

Real Estate Inventory Has
Increased Substantially

As with cash seizures, the number of real estate seizures has grown dramatically in recent years. This, coupled with the complex nature of real estate seizures, has contributed to backlogs. The number of on-hand real properties undergoing processing has grown from 209 in October 1984 to 1,883 in December 1988--an 800 percent increase. The value of these properties also has grown from \$76 million to \$305 million -- a 300 percent increase. Virtually all of the seizures are in Justice's custody. However, a Customs official advised that they expect their on-hand inventory to double in fiscal year 1989.

Real Property Inventory Continues to
Grow



Justice \$295.5 as of December 1988

Customs \$8.2 million as of December 1988

Problems Identified In Prior
GAO Reviews and Actions Taken

In earlier testimonies² we noted two problem areas impeding the program's profitability.

First, Justice was not always promptly identifying and monitoring the amount of equity the defendant had in the property, that is, the forfeitable interest. Properties were frequently held, often for longer than 1 year, before being returned to the defendant or released to lienholders. Additionally, unprofitable properties were forfeited.

Second, the title industry was reluctant to insure forfeited property. The industry wanted Justice to warrant clear title, that is, to guarantee reimbursement for any title defects arising from its processing of the forfeiture. Because buyers normally need title insurance to obtain a mortgage, the concerns of the title industry at best lengthened processing time, by requiring more documentation, and at worst lowered the market value of the property if it was sold without title insurance.

Since our last testimony, Congress enacted the 1988 Omnibus Drug Initiative Act (Public Law 100-690). This law strengthens congressional oversight of high value property (\$1 million or

²Statements of Gene L. Dodaro on June 23, 1988; March 4, 1988; and September 25, 1987. See appendix III for full reference.

more) by requiring the reporting of defendant equity in the annual congressional reports on Justice's and Customs' forfeiture programs. An additional \$30 million in personnel resources paid for with forfeiture profits is being provided to U.S. Attorneys to help process these cases. Also, Justice, in acting on one of our earlier recommendations, now allows contracting for legal services for the title searches and examinations.

Finally, Justice is drafting legislation which would allow the Attorney General to warrant clear title to purchasers of forfeited real property. This change is designed to alleviate the title industry's concerns and permit Justice to sell property quickly at its fair market value and thus maximize forfeiture revenues.

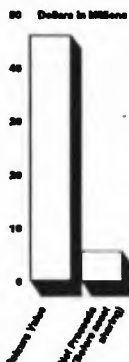
Real Estate Problems
Continue

We have updated our earlier work and found that real property seizures, unlike cash, continue to contribute little to the Asset Forfeiture Funds. Our earlier work had disclosed that most seizures were unprofitable because (1) the case was closed without forfeiture or (2) net proceeds from forfeited properties were low or non-existent.

Our current work has disclosed that the situation remains essentially the same. We examined 69 closed cases, with an

initial inventory value of \$45.8 million. These 69 cases represent all closed cases in Texas in the districts we reviewed as well as all large cases in Florida (each initially valued at \$1 million or more). Net proceeds for these properties were \$5.4 million, or 12 cents on the dollar. However, 2 of the 69 properties accounted for 80 percent of all net proceeds realized. The remaining 67 properties averaged 4 cents on the dollar-- exclusive of indirect costs.

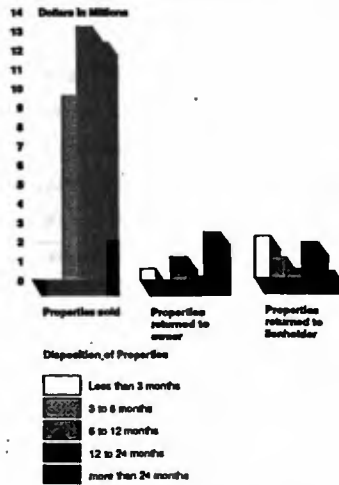
Real Property Disposal Have Contributed Little to the Asset Forfeiture Funds



Does not include indirect costs borne by agency appropriations such as salaries of attorneys, Marshals, agents, etc. or present value of government financed sales.

Many of the properties remain in inventory for long periods even when net proceeds are low. This is true for both forfeited properties that the government eventually sells as well as properties which are released--either to an owner or lienholder. The amount of time and effort required on real property seizures can be reduced by minimizing the number of unprofitable seizures entering the system through better pre-seizure planning.

Real Property Disposals Were in Inventory for Long Periods of Time



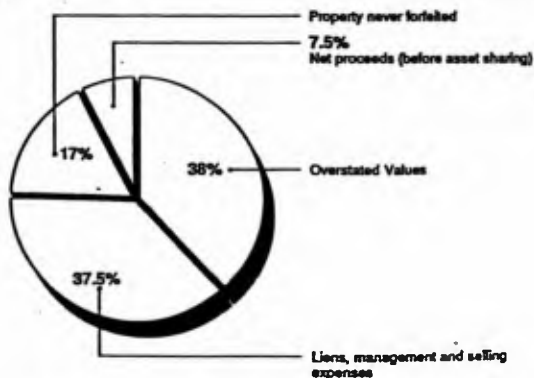
For example, a Tarpon Springs, Florida property valued at \$5 million when seized in May 1988 had no defendant equity because of high liens and overated value. After seizure, it

was discovered that state bankruptcy proceedings had been initiated by the principal lienholder in February 1988--months before seizure. As of March 1989, management costs totaled about \$200,000 and the property was still in inventory.

In Tomball, Texas, only \$1.4 million of \$4.5 million in liens was identified before seizure of 315 acres of land. The property, which was appraised at \$2.2 million, remained in the inventory as of December 1988--28 months after seizure.

There are several reasons for the low return on real property seizures. In Florida, we reviewed all 12 seizures each initially valued at \$1 million or more which were closed as of December 1988. The following chart illustrates the results of our analysis. Net proceeds represents 7.5 cents on the dollar.

Why Low Net Proceeds Were Realized
(Analysis of Florida properties)



Indirect costs and present value of government financed sales were not considered in this analysis.

In Texas, net proceeds relative to initial values also were generally low. We reviewed all 57 closed cases in the Houston and Dallas Districts. Net proceeds of \$2.9 million were realized on property initially valued at \$12.5 million, or 23 cents on the dollar. However, one property accounted for \$2.6 million of the net proceeds--90 percent. The remaining 56 properties netted \$323,000, or 5 cents on the dollar. Forty-four of the properties, or 77 percent, were released to owners or lienholders and did not generate any revenue to the Forfeiture Fund. Factors contributing to the low return were the same as in Florida but were compounded by a soft real estate market due to economic conditions in Texas.

Improvements Needed

The filing of the civil forfeiture complaint with the court initiates the forfeiture proceeding. In most cases, the real property is taken into custody (seized) at that time. According to U.S. Attorney Office policies, before the complaint is filed (or before seizure), the Assistant U.S. Attorney should (1) review agent investigative reports to ascertain the legal merits of forfeiture, (2) obtain professional appraisals of the property's value, and (3) obtain estimates of the wrongdoers' interest, using such informational sources as recorded mortgage liens and state/local tax records. U.S. Marshals Service as well as agency policies state that the forfeitable interest should be determined before seizure. Agency officials also advised this

information should be obtained not later than 60 days after seizure.

Despite common agreement on its necessity and importance, this was not done before seizure in the properties we reviewed worth \$1 million or more. The established pre-seizure policies are good but they must be complied with by the Assistant U.S. Attorneys to be effective. This could help preempt the seizure of worthless properties which incur costs and aggravate the case processing backlog unless a conscious decision is made to seize the property for law enforcement purposes (e.g., a "crack" house or a plant manufacturing illegal drugs, etc.).

Some properties may be seized before an equity determination because a thorough analysis of the forfeitable interest could jeopardize the investigation. We believe Justice should establish a "quick release" policy so that, when appropriate, properties could be quick released to innocent third parties, such as lienholders, when the forfeitable interest is subsequently determined to be low or non-existent.

GAO RECOMMENDATIONS

We recommend that Congress

- enact legislation to amend civil forfeiture law stating that the U.S. Government guarantees clear title upon completion of the civil forfeiture process.

We recommend the Attorney General

- Ensure that professional appraisals and title searches be normally obtained before a complaint for forfeiture is filed. In those situations where a thorough analysis of defendant equity/forfeitable interest before seizure would jeopardize an investigation, professional appraisals and title searches should be done within 60 days of seizure.

- Consider including the estimated forfeitable interest in civil complaints for forfeiture so that the financial merits of the case will be known before the judicial proceedings begin.

- Establish a quick release policy whereby heavily encumbered properties (low or non-existent forfeitable interest) could be timely released to innocent co-owners or lienholders so those parties can pursue recovery of their vested interests.

- Ensure that specific language regarding clear title is provided to key congressional committees.

AGENCY COMMENTS ON OUR RECOMMENDATIONS

Justice headquarters officials acknowledge that title searches and professional appraisals normally need to be done before seizure. Also, both the Miami and Tampa U.S. Attorney Offices agreed with our recommendations.

Further, in February 1989, the Miami U.S. Attorney Office (which has the most real estate cases nationwide) advised the Drug Enforcement Administration, Federal Bureau of Investigation, Customs Service and the U.S. Marshals Service that a report as to all possible interested parties should be provided before seizure unless a delay in seizure could adversely affect the civil forfeiture proceeding. In that event, the report should be provided not later than 30 days after seizure.

Justice officials also said they will propose a technical amendment to specifically state Justice's authority to warrant clear title to subsequent purchasers of forfeited property. It is our understanding they will propose amending 28 U.S.C. 524 (C) (1)--the legislation creating the Justice Assets Forfeiture Fund.

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This completes my prepared statement. I would be pleased to respond to any questions.

Appendix I

Appendix I

Key Financial Data On
Asset Forfeiture Program

	<u>Justice</u> (millions)	<u>Customs</u> ^{a/} (millions)
Receipts:		
Fiscal Year 1985	\$27.2	\$10.1
Fiscal Year 1986	93.7	41.4
Fiscal Year 1987	177.6	49.8
Fiscal Year 1988	207.3	35.9
Fiscal Year 1989 (est.)	\$222.4	\$35.0
Program Related Disbursements		
Fiscal Year 1985	\$ 2.4	\$4.9
Fiscal Year 1986	42.8	7.5
Fiscal Year 1987	114.4	17.5
Fiscal Year 1988	160.6	8.2
Fiscal Year 1989 (est.)	\$198.4	\$10.0
Transfers for other Expenditures ^{b/}		
U.S. Treasury General Fund (FY 1985-1988)	\$50.9	\$82.2
Prison Construction	\$95.4	
U.S. Attorneys	\$30.0 ^{c/}	
Holding Account Balances		
as of 12/31/88	\$255.0	\$107.0
Amounts shared with state/local law enforcement agencies		
Fiscal Year 1986	\$17.1	\$4.9
Fiscal Year 1987	46.8	6.2
Fiscal Year 1988	76.7	11.2

^{a/}Receipts and disbursements are understated because Customs Offsets expenses against proceeds before making deposits to the Forfeiture Fund.

^{b/}After FY87, Justice was no longer required to transfer surpluses to Treasury's General Fund.

^{c/}Includes \$10 million already transferred during fiscal year 1989 plus another \$20 million anticipated during fiscal year 1989.

Appendix II

Appendix II

Scope of GAO Asset Forfeiture Review
Department of Justice and Customs Service

CASE

	<u>Justice</u>		<u>Customs</u>		<u>Total</u>	
	<u>\$</u>	<u>Value</u>	<u>\$</u>	<u>Value</u>	<u>\$</u>	<u>Value</u>
	<u>Cases</u>	<u>(millions)</u>	<u>Cases</u>	<u>(millions)</u>	<u>Cases</u>	<u>(millions)</u>
DCIS/ Indeptb/	985	\$86.5	333	\$41.7	1318	\$128.2
	<u>26</u>	<u>21.4</u>	<u>36</u>	<u>39.9</u>	<u>62</u>	<u>61.3</u>
Totals	<u>1011</u>	<u>\$107.9</u>	<u>369</u>	<u>81.6</u>	<u>1380</u>	<u>\$189.5</u>

REAL PROPERTY

DCIS/ Indeptbb/	216	\$ 18.8			216	\$ 18.8
	<u>35</u>	<u>102.0</u>	<u>3</u>	<u>\$5.2</u>	<u>38</u>	<u>107.2</u>
Totals	<u>251</u>	<u>\$120.8</u>	<u>3</u>	<u>\$5.2</u>	<u>254</u>	<u>126.0</u>

a/Reviewed files to extract dates when key processing steps were done and other data, such as type and amount of forfeiture.

b/Reviewed all documents in case file, discussions with agency personnel on facts of case, etc.

APPENDIX III

APPENDIX III

GAO REPORTS AND TESTIMONIES ON
ASSET SEIZURES AND FORFEITURE

- | | |
|---|---------------------------------------|
| 1. Statement of Gene L. Dodaro Before the Subcommittee on Federal Spending, Budget and Accounting, United States Senate, Asset Forfeiture Programs: Progress and Problems | GAO/T-GGD-88-41
June 23, 1988 |
| 2. Statement of Gene L. Dodaro Before the Subcommittee on Crime, House of Representatives, on Asset Forfeiture Programs: Corrective Actions Underway But Additional Improvements Needed | GAO/T-GGD-88-16
March 4, 1988 |
| 3. <u>Seized Conveyances: Justice and Customs Correction of Previous Conveyance Management Problems</u> | GAO/GGD-88-30
February 3, 1988 |
| 4. Statement of Gene L. Dodaro Before the Subcommittee on Federal Spending, Budget and Accounting, United States Senate, on Real Property Seizure and Disposal Program Improvements Needed | GAO/T-GGD-87-28
September 25, 1987 |
| 5. Statement of Gene L. Dodaro Before the Subcommittee on Federal Spending, Budget and Accounting, United States Senate, on Asset Forfeiture Funds: Changes Needed to Enhance Congressional Oversight | GAO/T-GGD-87-27
September 25, 1987 |
| 6. Statement of Gene L. Dodaro Before the Subcommittee on Federal Spending, Budget and Accounting, United States Senate, \$ Millions in Seized Cash Can Be Deposited Faster | GAO/T-GGD-87-7
March 13, 1987 |
| 7. <u>Drug Enforcement Administration's Use of Forfeited Personal Property</u> | GAO/GGD-87-20
December 10, 1986 |
| 8. Statement of Arnold P. Jones Before the Committee on the Budget, United States Senate, On Customs' Management of Seized and Forfeited Cars, Boats, and Planes | Statement
April 3, 1986 |
| 9. <u>Improved Management Processes Would Enhance Justice's Operations</u> | GAO/GGD-86-12
March 14, 1986 |
| 10. <u>Better Care and Disposal of Seized Cars, Boats, and Planes Should Save Money and Benefit Law Enforcement</u> | GAO/PLRD-83-94
July 15, 1983 |
| 11. <u>Asset Forfeiture - A Seldom Used Tool in Combatting Drug Trafficking</u> | GAO/GGD-81-51
April 10, 1981 |

Mr. HUGHES. Let me just pick up with the warranty of clear title. That would require a legislative change in the law, but one of the things that would concern me, until we have the capacity to actually do a pretty good job of pre-seizure investigation, the Government would be on the hook for titles that might not in fact be clear.

So my question is: How much progress are we making in the agencies, in Justice and in Customs, in attempting to, through pre-seizures clearance, determine the number of liens, their value, whether they are legitimate; are we doing a better job than we did a year ago; are we about where we were; where do you see us?

Mr. DODARO. We are in about the same position we think we were a year ago.

Mr. HUGHES. So we haven't made very much progress?

Mr. DODARO. No. And I—

Mr. HUGHES. It seems to me that that's the biggest problem with our real estate. I mean real estate is where we have a tremendous problem with liens. Apparently we don't know when we take the property in just what the nature and extent of the liens are. In other words, we haven't done a very good job of making a determination as to whether or not there are bona fides liens early on.

Is that because we just haven't developed that in-house expertise or is it because we've developed that expertise but we just lack the resources and we're not able to reach those cases? What is the problem?

Mr. DODARO. There are procedures in the Justice Department that require officials to do these things beforehand. It's a matter of not complying with established procedures thoroughly.

If you recall, one of the recommendations we made last year was to authorize the Justice Department to go out and hire private attorneys, who would have much more experience in local real estate matters than the U.S. attorneys.

And in Justice they have gone forward and allowed that to take place, but we haven't really seen any changes as a result of that yet.

I'll let Mr. Correia explain in a little bit more detail some of the problems that we encountered here.

Mr. CORREIRA. Mr. Chairman, I think the procedures that they have, the requirements for pre-seizure planning, are excellent. But I think the problem is that you have different organizations involved and the key players in this, I mean in complying with these requirements, are the U.S. attorneys.

And these procedures I think are recognized by the National Asset Seizure Office, which is a staff office to provide assistance in seizures of real estate, and in some of the other organizations there are the civil attorneys, for example.

But until you get the criminal attorneys also paying attention to these requirements, I don't know that you're going to see much improvement.

Mr. HUGHES. I just get the impression—and correct me if I'm wrong—that quite often we seize assets and we haven't done any pre-seizure planning. Then we discover, after we seize the assets, that there are major problems and because we don't have the resources, we don't get to review that as promptly as we should. I be-

lieve often we're way into the pipeline, 15 months or 2 years later, when we discover that the liens exceed the value of the equity in the property.

Is this basically what's happening?

Mr. DODARO. That happens in a number of cases, yes.

And that's why we think, Mr. Chairman, this recommendation that we are making that they have to include the estimated forfeitable interest in civil complaints for forfeiture will help resolve this issue.

That will force a consideration of the financial merits of the situation before they begin judicial proceedings. So that would be another check in the process up front to sort of force consideration of these issues before they proceed.

If at that time the decision is made that there's little or no forfeitable property interest, that's where we think this quick release policy would come in and let us turn it back to the lienholder or some other interested party and then move on.

Mr. HUGHES. I presume we'll have to give legislative authority for that quick release policy, or is that something the agencies have from the authority already granted?

Mr. DODARO. We believe that the agency already has the authority.

Mr. HUGHES. Has the authority.

Mr. DODARO. Right.

Mr. HUGHES. I gather that most of the real estate that we seize we end up remitting; am I correct?

Mr. BLACK. Most of it is forfeited.

Mr. HUGHES. Most of it is forfeited.

Mr. BLACK. Even if we're not going to wind up with a lot of equity out of it, it's generally forfeited, and then we sell it off.

Mr. HUGHES. How much of the real estate is remitted to the lienholder or to the owner?

Mr. BLACK. Seventeen cents or——

Mr. CORREIRA. It's on that chart.

Mr. BLACK. I think it was 17 cents on every dollar.

Mr. HUGHES. Is remitted.

Mr. BLACK. Yes.

Mr. HUGHES. Do the agencies have in-house expertise to be able to run a record check?

For instance, if we have an ongoing investigation, it just might not be prudent to contract the work out to a private contractor to run the title search.

Do we have that in-house expertise?

Mr. DODARO. Yes.

Mr. BLACK. Yes.

Mr. HUGHES. We have that now?

Mr. CORREIRA. Mr. Chairman, the biggest objection that we hear from the agency officials, that you can't always do pre-seizure planning because you run the danger of jeopardizing the investigation.

We've gotten mixed views on that from different agency people. Some people say, yes, that's a legitimate concern, but in many cases that is not a concern.

Mr. HUGHES. But even if we waited till we make the arrest and the seizure, it doesn't take long to run a record check.

It certainly doesn't take a year, does it?

Mr. DODARO. That's correct.

Mr. HUGHES. How many instances did you find where the liens clearly exceeded the equity in the property and we probably should never have held onto it for more than a week?

Mr. DODARO. Of the \$12 million disposals in Florida, we lost money on six of them.

Mr. HUGHES. I think that would be the case unless there's some question about the lienholder.

If the lienholder is one of the banks in town, then obviously chances are it's a legitimate lien.

If it's a private individual, then it might take longer.

Mr. DODARO. I'm going to let Mr. Lively talk about the properties we looked at here in Florida.

Mr. LIVELY. OK. Here in Florida we looked at all million dollar seizures, both disposals and property on hand. There were \$14 million seizures on hand in December 1988 that were seized since September 1987.

That's when we first testified on the subject.

All 14 properties had one or more of the problems that we have previously discussed, overstated values, no defendant equity, or there had not been a title search or appraisal done on the property.

Mr. HUGHES. How much of a problem is caused by the fact that we have basically a two-track system, that we have Customs moving in one direction and Justice moving in another?

Mr. DODARO. Well, basically most of the real properties are seized by the Justice Department.

Mr. HUGHES. I understand that.

So that contributes very little to the overall problems?

Mr. DODARO. Right.

Mr. HUGHES. The gentleman from Mississippi.

Mr. SMITH of Mississippi. Several times you've referred to overstated values.

Whose responsibility was it for stating the value; how was that determined?

Mr. DODARO. The seizing agency.

For example, if DEA would seize a property or Customs, they will be responsible for determining the value at the time of seizure.

Mr. SMITH of Mississippi. What expertise or what training has the DEA, Customs, or FBI agent had to determine the value of the property?

Mr. BLACK. As far as we know, they are not trained in any substantive way on how to value property?

Mr. SMITH of Mississippi. Well, how did we ever get into a process where we don't use an appraiser, a real estate appraiser, or a real estate agent or somebody else rather than having a law enforcement officer try to appraise a real estate property?

Mr. BLACK. The professional appraisals generally come after we've taken the property into custody, after we've seized it. So we start out with an initial valuation, which is done by the agency officials, and then subsequent to that, we get a professional appraisal and eventually we sell it.

Our analysis showed that we lose 38 cents on the dollar from the initial valuation to the selling price.

Mr. SMITH of Mississippi. That property and that return, what percentage of that is residential property and what percentage commercial?

Mr. BLACK. Most of the ones that we looked at here in Florida are commercial. Our review of the Florida properties was restricted to the ones initially valued at a million dollars or more. There were one or two residences——

Mr. DODARO. There were three.

Mr. BLACK [continuing]. Three residences in Florida.

In the Texas properties we looked at, most were residences.

Mr. SMITH of Mississippi. In the commercial property, which you say a large portion of that is in Florida, any shopping centers seized?

Mr. BLACK. I guess you could call Tarpon Springs a shopping center, as it's referred to as a financial center. It's a two-story group of about 60 rental places for commercial businesses.

Mr. SMITH of Mississippi. OK. At the point in time that we seized Tarpon Springs, then, we physically took control of it and took control of the renting of that office space; is that correct?

Mr. BLACK. Yes.

Mr. SMITH of Mississippi. And what expertise did we have to do that?

Mr. BLACK. To——

Mr. SMITH of Mississippi. Did the DEA or Customs, somebody, take control?

Mr. BLACK. Yes. The Marshals took control, and they got a contract for a property manager. The cost is borne by the forfeiture fund. So——

Mr. SMITH of Mississippi. When you say "a contract for managers," do they go out and get RFP's from real estate agencies or somebody to manage it; is that what it is?

Mr. BLACK. I have known of cases where an RFP was used to get a management service contract. In the specific case we're talking about I'm not sure how they got that expertise.

Mr. SMITH of Mississippi. What was the value and what was the return on Tarpon Springs, for instance?

Mr. BLACK. Well, it's still in inventory. The initial valuation of it was around \$5 million. I understand the current value of the property is somewhere between \$900,000 and \$1.4 million.

Mr. SMITH of Mississippi. Over what period of time did it reduce from \$5 million to \$900,000?

\$900,000 you said?

Mr. BLACK. Somewhere between \$900,000 and \$1.4 million is the——

Mr. SMITH of Mississippi. OK.

Mr. BLACK [continuing]. Range on the current appraisal.

Mr. SMITH of Mississippi. Over what period of time did it go from a value of \$5 million down to \$1.4 million?

Mr. BLACK. I'd say about 3 or 4 months.

Mr. SMITH of Mississippi. Three or 4 months?

Mr. BLACK. Yes. The initial \$5 million valuation was much higher than it should have been. I think that's safe to say.

A lot of the property is still under construction. And we're not sure how that initial valuation came about.

Mr. SMITH of Mississippi. But that's where your major problem is, in the valuation, then——

Mr. BLACK. Yes. In that particular case——

Mr. SMITH of Mississippi [continuing]. And then, once you take possession of it, in the operation of it?

Mr. BLACK. That's right.

Mr. SMITH of Mississippi. OK. Does administratively the head of DEA or Customs or FBI have the authority now to go out and solicit or get RFP's from an agency to do this on the front end?

Mr. BLACK. The Marshals do.

Mr. SMITH of Mississippi. All agencies or just the Marshals?

Mr. BLACK. I'm not sure. I know the Marshals do. I'm not sure about the seizing agencies, the Customs or DEA folks.

Mr. SMITH of Mississippi. Well, you don't know whether DEA, FBI, Customs could on the front end do these things administratively; for instance, a title search, a management company or those things?

Mr. DODARO. Most, if not all, of the property is turned over to the Marshal Service, and they would be able to handle that. They have the ability to do these things.

Mr. SMITH of Mississippi. Yeah. But the problem comes before the seizure——

Mr. DODARO. Before the seizure.

Mr. SMITH of Mississippi [continuing]. Is that what we're talking about?

Mr. DODARO. Right.

Mr. SMITH of Mississippi. The whole question that we're getting to is, when DEA or Customs or FBI is working a case that is the point that they need to be looking at the amount of the liens and the later operation of the facility.

You know, once they seize it and give it to the Marshals, then you're where you don't want to be if you've got more liens than the property is worth.

Mr. CORREIRA. Well, there's nothing to prevent the Marshals Service from contracting out the title search and a professional appraisal. And I believe that the seizing agencies would have the same authority.

Mr. SMITH of Mississippi. You're missing the point, though.

You think the seizing agency would have the same—let's go back just a moment.

The DEA opens a case here in south Florida today, and they work it over a 6-month period. During that period of time they find out there's a large condominium complex, maybe a shopping center involved.

Do they at that point in time administratively have the authority to go out and get a title search done by a company that's in that business or get a real estate appraiser to give them an accurate appraisal on the property while the investigation is going on?

Mr. DODARO. Congressman, the Marshals participate in the pre-seizure planning. So there's no reason why the seizing agency could not through the Marshal Service make the arrangements for that type of——

Mr. SMITH of Mississippi. OK. Why is that procedure not in place, then; is there some reason that it's not?

Mr. DODARO. It's in place right now. There's requirements, as we mentioned before, for preseizure planning to be done. In fact, they were established following our first look into this about 3 or 4 years ago, and they've tightened up those procedures since then. So there are procedures on the books for everything to be done that we've been talking about.

And what we've seen, though, is that there's not always compliance with those procedures for various reasons.

So we think the procedures that they have in place and the administrative authority to do these things is pretty well set. It's just a matter of trying to comply with those procedures as best as you can under the circumstances.

Mr. SMITH of Mississippi. Well, the procedures are in place, then.

What happens to an agency that does not comply with the procedures?

Mr. DODARO. That's a good question.

You know, we're not sure, but I don't think there's anything done from that standpoint other than to have GAO or somebody else come in and tell them that they're not complying with those procedures.

I mean in a sense nothing happens to the agencies, but—

Mr. SMITH of Mississippi. There's no penalty.

Mr. DODARO. Yes. Basically, the repercussions are on the fund. The fund basically suffers.

It was basically set up so that the procedures that are in place ensure that, to the extent possible, business concerns of this decision are adequately considered up front.

And we don't dispute the fact that the primary reason for many of these seizures is for law enforcement purposes and that in some cases you may even want to seize an unprofitable property.

But we're saying that, let's make that decision consciously, with the best facts available and intelligently go forward on that basis; if we do decide to seize an unprofitable property, let's quickly get rid of it, once we've seized it, and do the work up front.

So there's no reason why, consistent with law enforcement purposes, we can't run the fund and the seizing aspects of it on a more judicious basis and introduce more business practices in the process.

And we've been trying to come up with recommendations to be able to do that.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

Since the gentleman has nothing to do with seized assets or prisons, I'll stop.

Mr. DODARO. I was careful with that.

Mr. SMITH of Mississippi. We could always seize a prison, I suppose, and we have, but not physically.

There are two types of seizures, aren't there; isn't that basically correct?

One type is the seizure incidental to a lawful arrest, where a house or a car or a boat or cash is taken when the defendant is arrested.

The other is a RICO seizure where the arrest may be independently made at the same time a civil case under the Federal RICO statutes has been prepared.

Now, under a RICO case it is obvious that you'd have to do a title search absolutely immediately prior to the time that you were to seize under RICO because otherwise you couldn't seize under RICO; you have to prove, at least be able to prove, that the asset that you're seizing is in fact belonging to the defendant and was utilized with the proceeds of illegal sales of drugs or other items under the RICO law.

So there are cases where pre seizure title searches are absolutely a requirement; otherwise, you couldn't even determine whether the property was capable of being seized under RICO.

Correct?

Mr. DODARO. Yes.

Mr. BLACK. Yes.

Mr. SMITH of Florida. Now, the seizures made incident to a lawful arrest, for instance, a house or other things, they can do that and seize the property, seize, so to speak, in the sense that they cordon it off and they lock it up for the time being; then they do a title search—correct?—to determine whether or not that property belongs to the defendant?

Mr. BLACK. That's what they've been doing.

Mr. DODARO. Yes.

Mr. SMITH of Florida. Fine. Now, in this county you can do a title search in about 5 days; also in Dade County about 5 days.

Did you determine any specific time frame within which title searches were being done?

You can also get an appraisal in a week, you know, in this county.

I mean was there any kind of mean number that you came up with as to what the agencies themselves were in fact doing; is it 5 days, 2 weeks, 1 month?

What's the mean time in which title searches and/or appraisals are being done for the purpose of determining whether or not, A, that this is a properly seized property, and, B, whether or not it should be remitted right away because it isn't capable of being ultimately, because of the finances of the title, transferred and sold?

Mr. DODARO. Basically it varied considerably on the properties.

And we have some information that addresses this issue we can provide to the subcommittee.

Mr. SMITH of Florida. Well, I would hope, Mr. Chairman, that we would be able to receive that information. It would be very important.

Thank you.

Mr. DODARO. We'll provide it.

[The information was not provided.]

Mr. SMITH of Florida. But in your estimation was it too long a period of time?

Mr. DODARO. Yes. It was way beyond what we think is reasonable.

And a similar point was made about the cash moving from holding accounts to the asset forfeiture fund. In those cases there was no time period, and that's where we came up with a time period of 30 days.

Mr. SMITH of Florida. Let me ask you about that. What was the reason you found that there was no transfer of assets from one account to the other?

It only has to be done on the books. There's not even a direct flow of cash. It's either an electronic transfer or it's a ledger transfer from the credit of one agency to the credit of another agency inside the Federal Government.

What is taking so long?

Mr. DODARO. Well, in some cases the file was being used for another purpose, but we think they could have made copies of the necessary information. They were waiting for the actual forfeiture paper to come through before making the transfer.

There were also reasons given to us that with the workload demands they haven't been able to do it.

But we don't think there's any reason why—and they agreed with us—they couldn't transfer the money in a 7-day period for \$100,000 or more cases and then within a 30-day period for the lesser amount.

Mr. SMITH of Florida. By the way, I agree with you that the administrative procedure ought to be extended to all uncontested cash seizures.

There's absolutely no reason and no difference in real terms between a seizure of \$99,000 and a seizure of \$299,000 or \$1.299 million.

If no contest occurs, why couldn't it be administratively forfeited; you don't see any reason?

Mr. DODARO. No. And we're recommending that.

Mr. SMITH of Florida. The other question I have is: When it wasn't contested and it was nonjudicial, why did it take 8 months?

Mr. BLACK. We think that's too long for uncontested administrative cases.

Mr. SMITH of Florida. Well, I think so too.

But tell me why it took 8 months.

Mr. BLACK. We can't answer that because we looked at the big cases, which all go through the judicial proceeding. We were looking at cases of \$500,000 or more.

We just did a statistical rolloff on the smaller cases to measure the total time that it was taking.

Mr. CORREIRA. Let me attempt—

Mr. SMITH of Florida. So I could direct my question—

Mr. CORREIRA. Let me attempt to answer that.

Mr. SMITH of Florida. Sure.

Mr. CORREIRA. The reasons usually relate to an agency's workload and the need to establish probable cause. And it's very difficult for a number of reasons for us to get into and evaluate the validity of that.

However, in looking at—we looked at a number of large—

Mr. SMITH of Florida. Whose workload?

Mr. CORREIRA [continuing]. Cash seizures.

Mr. SMITH of Florida. Whose workload?

Mr. CORREIRA. Workload in Customs, Fines, Forfeitures and Penalties; the U.S. attorneys in Justice; the seizing agency.

And in trying to establish probable cause the U.S. attorney will likely request more information from the seizing agent. Often it

takes a long time to get that report because they're working on—this is what they tell us—other cases and so forth.

But we don't think these reasons are valid. They're valid up to a point, but they don't justify the delays that we're talking about here.

And to illustrate, we looked at something like 17 cases that were all over \$500,000, and in 7 of these cases they completed processing of the case after we questioned them about it.

In one case it took 1,175 days to file the complaint for forfeiture; in another one, 906 days; 880 days; 594 days. This is before you file the forfeiture.

And once they file the forfeiture, in most cases or in some of these cases it was a matter of a month until—

Mr. SMITH of Florida. These are judicial forfeitures?

Mr. DODARO. Yes.

Mr. CORREIRA. These are judicial forfeitures—

Mr. SMITH of Florida. Which means there's been a contest?

Mr. CORREIRA. No, these were primarily uncontested cash cases.

Mr. SMITH of Florida. Primarily uncontested.

Mr. CORREIRA. Yes, sir. Based on our results.

Mr. SMITH of Florida. And did you question them about those specific cases?

Mr. CORREIRA. Again it gets into workload and this sort of thing.

Mr. SMITH of Florida. Eleven hundred days of workload problems, or somebody lost the file?

Mr. BLACK. We've heard that "lost in the mail" kind of thing where one agency will say they've referred it to the next step in processing but that agency says they didn't receive the—

Mr. HUGHES. Will the gentleman yield to me?

How much of it is, "Well, it's nice to have \$25 million in that account for a certain time?"

Mr. CORREIRA. That didn't happen at all.

Mr. HUGHES. Not from a PR standpoint?

Mr. CORREIRA. No, sir.

Mr. HUGHES. That's not a factor at all?

Mr. CORREIRA. No. In fact, it's to their benefit to move the money into the asset forfeiture fund because then they can share it with the State and locals.

Mr. HUGHES. So there are no PR reasons you could see?

Mr. CORREIRA. No, sir.

Mr. DODARO. I think you may have some of that, Mr. Chairman, in the values placed—

Mr. HUGHES. Yes.

Mr. DODARO [continuing]. On the real property when that's seized.

Mr. HUGHES. Well, we know that that's part of the problem with the seizure of assets.

Mr. DODARO. But in a cash seizure I don't think that's a problem.

And we think if we can change the law to require these uncontested case seizures to be processed administratively and implement these time frames that we're recommending, that there shouldn't be any reason why they couldn't reduce the average time to about 4 months.

Mr. SMITH of Florida. Which leads me to our last question, and that is the overall administrative capability to keep an overview not to lose all this stuff.

Saturday when we went out with the Customs Service, they were working from some sheets that they had, computer printout sheets. Some of those sheets showed that some of those assets had been there 2 and 3 and 4 years, but they needed a backup with their files.

Did you examine their overall administrative technique from the top down so that you could determine whether or not there's a proclivity or a greater possibility than normal for losing some of these files, that there's no middle level manager who every once a month does a review of every single case that came in and says, "Where's this one; where's this one; where's this one? This is out with the U.S. attorney; this one needs more investigation; this one is out for probable cause?"

I mean how much of that do they do so that at every step in the process somebody above the previous step is looking and pulling in all this information always, so 1 year or 2 or 3 in that case doesn't go by and something is still out for investigation?

Mr. DODARO. Right. We've been looking at this issue for the last 3-plus years. And that lack of having an accurate case inventory system is one of the major underlying problems why this is occurring.

They have systems that they're planning to put in place. But from a managerial standpoint, you're absolutely right. I mean there's no oversight.

And that problem of not having accurate information is compounded by the number of players that are involved. The flow of information is just very difficult.

But you need to have an accurate case inventory system in order to monitor the program, just as you would in any sort of activity.

Mr. SMITH of Mississippi. Are they using the same system, or does the Marshal Service use a different system than Customs, than DEA, et cetera?

Mr. BLACK. Each agency has its own system for monitoring the status of seized property cases. Because of the many players involved and the varying system it is difficult to cross-walk a case between players. The cross-walk is further compounded because the U.S. attorney sometimes lumps several seizure cases together and presents them to the court as one case.

We're hoping that if the law is changed to allow administrative forfeiture of all uncontested cash, which is the bulk of all cash, that it will automatically clean up a lot of the case status problems because you've eliminated the need to cross-walk between systems.

Mr. SMITH of Florida. And you say that you're about where you were a year ago on this whole issue.

Mr. DODARO. Yes.

Mr. CORREIRA. You've actually identified the major problem. That's why we have some of these cases taking 2 and 3 years, like the forfeited cash sitting in the holding account for 2 and 3 years.

They just don't have a means of readily reviewing—and they don't review—their inventory to see what's happening and to

follow up on cases that look like they're setting there for a long time.

Mr. SMITH of Florida. Have you ever made recommendations to all of these agencies about a master system?

Mr. BLACK. They have one under development. We have made recommendations in the past that they develop a national inventory system. That was one of our first set of recommendations that we made because, frankly, one of the issues that we face and one of the reasons it takes us so long to do the work is that the agencies do not have a national inventory system, so we go out on a local basis like here in Miami, and develop the information.

Mr. SMITH of Mississippi. But, you know, every 30 days the computer—you should be able to press a button, every case should be reviewed, and they ought to have an answer; it's flashing by their name in the computer, you know, 300 days, 600 days, so somebody will pull them out every 30 days and say, "What's the status of this one that's been so long; what about this one?"

Mr. DODARO. And what needs to be done to move the case.

Mr. SMITH of Florida. By the way, you were here and you heard the testimony of the local police agencies and the State agencies, where they say they're having difficulty getting the sharing.

A lot of this is a result of the policies which slow down the process at our level. They can't get the sharing until all of this is turned into—

Mr. DODARO. That's right.

Mr. SMITH of Florida [continuing]. The asset forfeiture fund; correct?

Mr. DODARO. That's exactly. That's exactly right.

Mr. SMITH of Florida. Now, what about assets, not cash now or assets that were sold and reduced to cash, what about assets that are shared?

In other words, there are times when planes, boats, cars, et cetera, are turned directly over to cooperating agencies.

Mr. DODARO. We didn't focus on that.

Mr. SMITH of Florida. You didn't focus on that.

Mr. DODARO. We just focused on the cash. We figured if they were having problems moving the cash, then you're really going to have difficulties with other things. But we didn't look at that.

Mr. SMITH of Florida. Thank you.

Thank you very much, Mr. Chairman.

Mr. HUGHES. I just have a few followup questions.

I think it was in 1986 in the Anti-Drug Abuse Act, the comprehensive drug bill, that we provided some authority and some direction that we should develop a master system. I think we also provided resources for computerization, to develop automation.

How far along are we with that master system?

Mr. BLACK. They have established it. We haven't looked at it closely, but we do know in some of the cases we've been looking at, these big real property cases in particular, the information we've pulled out of the files is different from what's available on the computer system.

Mr. HUGHES. Well, the problem obviously is that we have a lot of people who are involved in the process with a lot of assets, assets that continue to increase year after year. Our system is still anti-

quoted and it becomes harder and harder to track those assets, really, and they're falling between the cracks.

I got the impression in talking with the Customs folks, who were very kind to show us a lot of the assets on Saturday, that at least once a month when they have assets, notify the assistant U.S. attorney where they need further assistance, or their own offices, if the agency has to give approval.

Did you look at any bottlenecks in those areas?

Mr. BLACK. Only as it pertains to the cash cases. We did it with Customs.

Again Customs isn't really heavily involved in real property. But we did notice in looking at the cash seizures by Customs that when a unit would send out a request for an update to another unit, either in Customs or the U.S. attorney's office, they wouldn't get a response or, if they got a response, they would just then say, "OK, fine."

Nobody was really proactive to see whether or not there was any reason why that case shouldn't be moved more quickly.

And I think what we found out is that the ones that were completed during our review all came up uncontested.

Mr. HUGHES. Well, it seems to me we need to identify somebody as being in charge—

Mr. CORREIRA. Mr. Chairman—

Mr. HUGHES [continuing]. Because we go through this routine every year.

Mr. CORREIRA [continuing]. There are three bottlenecks in Customs.

Fines, Forfeitures and Penalties has a lot of responsibilities, and there are delays in getting the case processed.

Then they have to go to the regional counsel. And they also have many other responsibilities, and there are delays in there. And they all too often have to request additional information from the seizing agent to establish probable cause.

And then it goes to the U.S. attorney's office. And, of course, they're also overburdened.

So there are three areas where delays or stoppages occur because of workload and some of the other problems that we've talked about.

Mr. HUGHES. I just have one additional question.

How much are we losing because we're not doing enough preforfeiture planning?

Mr. DODARO. It's hard to figure, and we don't know.

Mr. HUGHES. Any idea?

Mr. DODARO. No. I wouldn't even venture a guess. Well, it's obvious that the longer we hold onto these assets where there's no equity, the more it costs the Federal Government.

Mr. CORREIRA. It makes it more difficult to adequately process or give attention to the properties where you can make money.

Mr. DODARO. And I think it's also an issue too in terms of not only how much we are losing but the kind of position we would be putting the Government in to guarantee clear title.

Mr. HUGHES. When is the pilot program between Justice and Customs going to get underway, any idea?

Mr. DODARO. Well, right now they're in the process of drafting a memo of understanding between the two agencies. We had a draft copy of the memo that was being discussed earlier this month.

Do you have any idea?

Mr. BLACK. It hasn't been signed yet.

Mr. DODARO. It hasn't been signed.

Mr. BLACK. It's a memo of understanding.

Mr. DODARO. Although it hasn't been signed, we do know they've made some progress in at least getting a memo of understanding underway. We hope that they can get it consummated quickly and we can get the pilot test underway.

Mr. CORREIRA. I can add some details here.

The memo of understanding calls for, as it's being reviewed, a 1½-year test and the first phase is 6 months. Customs would handle all the seized vessels, mostly ships that are seized in Florida, and Justice, the Marshals Service, would handle the seized vehicles.

Justice would also handle all the real property nationwide. And Customs would handle the seized vehicles in three States, Oregon, Washington, and Idaho.

And then following that 6-month test, it would be reevaluated and additional locations added to it.

Mr. HUGHES. Is anybody looking at the question of whether the assets that were transferred, particularly to other Federal law enforcement agencies—vehicles, airplanes and boats in particular—are being utilized effectively? Has anybody looked at that?

Mr. DODARO. No. We haven't looked at that aspect of it.

Mr. HUGHES. Any further questions?

[No audible response.]

Mr. HUGHES. Well, thank you very much.

We appreciate once again your assistance. We thank the General Accounting Office. They really have been of tremendous assistance to us, and we appreciate it.

Mr. DODARO. Thank you.

Mr. HUGHES. Thank you.

Our next panel is led by Cary H. Copeland, a Deputy Associate Attorney General.

Mr. Copeland is a graduate of Stephen F. Austin State University, where he received a B.S. degree and a master's degree and is a graduate of Georgetown University Law School.

Prior to his present position, he held administrative positions with the U.S. Departments of Commerce and Transportation and for a number of years was a legislative assistant to Congressman Wright Patman of Texas.

After law school he clerked for Chief Judge W.M. Taylor in the Northern District of Texas and then entered the Criminal Division of the U.S. Department of Justice in 1978.

In 1982 he transferred to the Department's Office of Legislative Affairs and was appointed to his present position in June 1988.

Cary has accompanied many witnesses before the subcommittee in Washington, and we are pleased that he could join us here today.

We have your prepared text, Mr. Copeland, which, without objection, will be made a part of the record.

We've read your statement. We hope you can summarize it and we can get right to questions.

We also hope you'll introduce those that are accompanying you here today.

STATEMENT OF CARY H. COPELAND, DEPUTY ASSOCIATE ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY DEXTER LEHTINEN, WILLIAM GAVIN, DAN HORGUN, WILLIAM J. SNIDER, JEFFREY FRATTER, PAUL V. KING, AND PAT WALSH

Mr. COPELAND. I'll be glad to do so, Mr. Chairman.

It really is a pleasure to appear before this subcommittee which has so much to do with the framing of the amendments to the Federal forfeiture law that brought it into the 20th century and that has lavished so much attention on our forfeiture activities over the last 5 years. We have benefited from your close vigilance.

This morning we have people here both from the Southern District of Florida and from Washington.

Let me ask U.S. Attorney Dexter Lehtinen, who is immediately to my right, to introduce the delegation here from the Justice Department from south Florida.

Mr. LEHTINEN. As Mr. Copeland said, I'm Dexter Lehtinen. I'm the U.S. attorney for the Southern District of Florida.

We welcome you.

The southern district, of course, is Indian River County all the way down to Key West and includes Broward County, Congressman Smith's county, and parts of Dade that Congressman Smith represents.

Bill Gavin is the special agent in charge of the Federal Bureau of Investigation in the southern district.

And Bill Snider with the Drug Enforcement Administration is here, counsel for asset forfeiture in Washington, DC.

Mr. COPELAND. Thank you, Dexter.

Let me introduce the Washington folks.

We do have, as Dexter indicated, Bill Snider, who is forfeiture counsel, Office of the Chief Counsel, Drug Enforcement Administration.

We have Jeff Fratter, who is Chief of the Seized Asset Division, U.S. Marshals Service.

We have Paul V. King, Unit Chief, Forfeiture and Seized Property Unit, FBI.

Immediately to my left is Pat Walsh, who is Deputy Director of the Asset Forfeiture Office in the Criminal Division.

So I think we've got a panel here, hopefully, that will be able to answer the questions you might have.

Let me just make a few brief remarks because I know you want to ask us specific questions.

The statement tries to give you an idea of the state of the Department of Justice forfeiture community in 1989. I think it's an encouraging one in many respects.

The forfeiture area is growing dynamically. It's a very fluid area. We're seeing new resources coming on board, particularly in the U.S. attorney's offices where they are needed so much. We have

175 new assistant U.S. attorneys and 175 new support personnel who are going to be coming on board.

In many of those U.S. attorney's offices they have not had adequate resources with which to handle the judicial forfeiture cases. I think this is going to speed up a lot of those judicial cases.

We're also getting a number of new people into all of the agencies through the Ebon Research Systems contract. I think we have in essence a total of about 300 contract personnel coming on board that will be able to help us, particularly in some of the more ministerial functions, such as entering the data into the system, and yet, of course, if you don't get the data entered into the system, then all of the computers we have are for naught.

Generally speaking again, I think the record is one of progress. We have particularly benefited from a number of the recommendations that GAO has made over the years. We do endorse the recommendations they made this morning. They've been very constructive.

We appreciate that we do have problems in many areas, and we're striving to correct those as quickly as we can.

In the legislative area we do share the concerns of the State and local law enforcement agencies with respect to section 6077.

In a nutshell, we think that provision is ambiguous in terms of its reach, that it can be construed to include joint as well as adoptive cases; second, that there is legislative history indicating how that language is to be interpreted; and, third, although we are inclined to interpret it narrowly, because we understand that was the desire of the subcommittee, we're concerned that our interpretation may not be particularly effective because there are dozens of States that have laws governing dispositions of forfeited assets under State law that are different from the procedure we've been following, with the result that there's potential litigation in all those States and, while we may have an interpretation, most courts feel like they're the ones who interpret laws and I'm afraid they may not give our interpretation a binding effect.

Again forfeiture, as the subcommittee—as the chairman has indicated, is an important tool. It's growing. We think it's proving itself, and we want to keep it going. We want to enhance our effectiveness in administering this weapon that this subcommittee gave to us some 5 years ago.

I'll be glad to take any questions that the subcommittee may have.

Mr. HUGHES. Well, let me just start with section 6077, because obviously there is a great deal of concern about that, and ask you basically why you have some question as to whether or not it would cover joint investigations.

Mr. COPELAND. Well, first—

Mr. HUGHES. I mean the language talks in terms of circumventing State law.

Mr. COPELAND. Right. But there is no effort in the provision to define what it covers. We do have a class of forfeiture that we call the forfeiture of adoptive seized property. There's no effort in the statute to identify that particular class of seizures and forfeitures.

I think there's no reason it could not be construed to prohibit our sharing with State agencies to the extent that a State law says

State forfeitures have to go, for example, 100 percent to the State education fund.

If we're giving money back directly to a law enforcement agency, conceivably this statute could be read as meaning we should not be doing that; we should be giving the prorated share that's going. If it's a 50-50 case, we should be giving the 50 percent for State or local participation to the State education fund rather than the law enforcement agency.

Mr. HUGHES. Let me ask it this way: What is the position of the Justice Department on the following hypotheticals?

Nonjoint, totally State investigation. The State comes to the U.S. attorney and indicates that they have an investigation; they're about to seize some property. Under their State law it all goes to the State school fund.

Is that a proper use of Federal process?

Mr. COPELAND. I think if the sole purpose of the Federal forfeiture of the State-seized property is to get the money back to the State of local agencies I think you have a good point.

That's why I don't think we would come up, and ask for an outright repeal. We do believe there are circumstances where the intent of those who brought the case in was to circumvent State law. And perhaps to some extent we have contributed to circumvention of State law.

I think, though, that is in a minority of cases. I think the bulk of the cases that are brought to us are brought to us because there are evidentiary problems or procedural problems under State law, because the State law does not govern forfeiture of real estate or because it doesn't cover forfeiture of properties that facilitate criminal activities, as the Federal law does.

I think there are good and sufficient reasons where, but for the Federal forfeitures, there would be no forfeiture at all. And we would think in those cases, if it can meet that "but for" test, then that should not be considered a circumvention of State law.

Mr. HUGHES. Well, suppose a legislature decides that they do not as a matter of public policy, want to see a forfeiture of real property under some circumstances.

Is it a proper Federal role, where we have no Federal presence and do not participate pursuant to a joint investigation or a joint seizure, to use the Federal process to frustrate basically State law in that regard; do you view that as a proper Federal role?

Mr. COPELAND. Again, if we're exclusively in the adoptive area, I think you have a good point. If we're talking in the point investigation area, where Federal law applies, then I think the supremacy clause carries us through and there's no inconsistency.

But let's say we have a situation where a State affirmatively prohibits forfeiture in either particular circumstances or a particular class of property.

Yes, I think in that case we should respect that State law to the extent we're dealing with an adoptive case.

But what you find, Mr. Chairman, is, in most instances, there's no affirmative prohibition; there is a failure to cover a particular class of property or a particular type of activity.

Where there in essence is a vacuum, then we would see no problem in going in and forfeiting an item of real property and returning the proceeds to the participating State and local agencies.

Mr. HUGHES. Well, do you have some proposed language that you envision would be helpful in clarifying what obviously was the intent of this subcommittee, that is to just deal with the adoptive forfeitures, that is the use of the Federal process just to frustrate State law?

Mr. COPELAND. Well, we want to work with the subcommittee on that, as we indicated when we came up. We appreciate the time you gave us.

We also met with ranking minority member, Bill McCollum.

I don't know that there's any magic answer here. We certainly don't have a particular fix that we're pushing at this point.

We think it would probably be better if we worked out a joint resolution of this with the subcommittee. We're certainly ready, willing and able to do that.

Mr. HUGHES. Let me ask you: Yesterday I was out on the tarmac here at Fort Lauderdale Airport, and I saw a lot of airplanes. I saw some relatively valuable airplanes, and I saw a few that might not be so valuable.

One of the planes I was interested in was an old tanker that the Drug Enforcement Administration seized. It's been sitting out there for a couple of years.

Do you have some plans for that tanker?

Mr. COPELAND. We have U.S. Marshal Dan Horgun here.

Are you familiar with that particular case, Dan?

Mr. HUGHES. It's been out here for a couple of years apparently.

Mr. HORGUN. I'm not familiar with it by your description.

Mr. HUGHES. Well, that's just typical of a number of assets that I noticed we have in inventory, and I just wonder why we continue to hold onto assets like that. I can't imagine what use we would have for it.

It obviously costs money because we have to turn the engines over a couple of times a month; we've got storage; we've got maintenance. These assets deteriorate in value the longer we hold onto them, particularly assets like that.

Mr. COPELAND. We'll try to identify that particular item of property, Mr. Chairman, and provide you with a written report on its status and the reason it's being held.

I'm not familiar with that particular aircraft.

Mr. HUGHES. Mr. Copeland, is there anybody looking at these assets to ask those questions?

Mr. COPELAND. Not as many as there should be, Mr. Chairman.

Mr. HUGHES. Is there anybody; I mean, are you looking at it?

Mr. COPELAND. No, sir. I have not picked it out of the—

Mr. HUGHES. Do you care to identify anybody that might be for us?

Mr. COPELAND [continuing]. Twenty thousand items of property we have.

But that's something we are working toward.

Mr. HUGHES. Well, we heard that last year—

Mr. COPELAND. Yes, sir. But we're—

Mr. HUGHES [continuing]. And the year before that—

Mr. COPELAND [continuing]. Working toward it, even though more slowly—

Mr. HUGHES [continuing]. And the year before that.

Mr. COPELAND [continuing]. Than we perhaps should be.

But what we need to do is get a couple of computer systems integrated so that they can cross-check each other. And that is now in the trial stage, and we hope to have that implemented shortly.

Certainly I must admit to a certain extent it's been this subcommittee and GAO who have been our quality control. We appreciate that that's not acceptable, and we're certainly trying to do better in that area.

Mr. HUGHES. Well, we're making some progress. I see progress. I see that—

Mr. COPELAND. I think so.

Mr. HUGHES [continuing]. We're moving in the right direction.

But, you know, it's inexcusable that we don't have a master tracking list yet. It seems to me to be inexcusable that we still don't have in place a preplanning seizure process that will save us a lot of aggravation.

I mean the more we load up our master list with assets that we're never going to realize anything on, the more we divert resources in unproductive areas and the more it costs us.

Mr. COPELAND. Let me say on that that you're certainly correct, and we do need to do more pre seizure planning.

We have had some problems with appraisals, but so have some financial institutions. I know there's legislation pending in Congress that would establish some stricter standards for appraisers because you can get some very wide variations in appraisals from certified appraisers.

But again we have a long way to go here. We can certainly improve our effort further.

Mr. HUGHES. I can understand the desire when you make a seizure to inflate the value of the seizure. I mean that's only good PR.

But, you know, it shouldn't take us very long thereafter to get a better appraisal of what we're talking about in equity.

Mr. COPELAND. Yes, sir.

Mr. HUGHES. And while it takes, I understand, 5 days to probably contract out some title work, it probably would take maybe an hour to run a record check if somebody had the expertise to go down to the county buildings and determine just what liens exist on a particular piece of real estate.

So we're not talking about a lengthy process. It's just that it's been falling through the cracks.

Mr. COPELAND. I think in some instances that's what's happened.

But keep in mind too now, we don't want to oversell this because there are going to be cases where we are going to consciously seize property that we know is going to be a loser.

Probably the best example would be what we're doing up in New York now by seizing leaseholds in crack houses as a means of shutting them down. We know a leasehold in a tenement is not a particularly valuable item of property.

Yet the primary purpose of the forfeiture program, we believe, is that law enforcement purpose, and these financial benefits are ancillary to that.

Mr. HUGHES. Well, we agree with that, but there are going to be instances also where we're going to have to seize because we don't know whether or not the lienholder is bona fide.

Mr. COPELAND. That's right.

Mr. HUGHES. So it's going to take us a while to maybe determine that.

But we're finding a lot of cases where the lienholders were legitimate, obviously legitimate from the very beginning, particular where they're institutions. In those incidences where there is a prior lien and no equity, we end up holding onto those assets for 1, 1½ years. That's just inexcusable.

Do we have the capacity in-house—is it Mr. Horgun?

Mr. HORGUN. Yes, sir.

Mr. HUGHES. Do we have the capacity now to in-house run a record check? Do we have to contract it all out?

Mr. HORGUN. A record check on a piece of property?

Mr. HUGHES. A title check.

Mr. HORGUN. No. We contract it out.

Mr. HUGHES. So we don't have the in-house capability.

Suppose we have a sensitive case and we don't want to contract it out.

What do we do?

Mr. COPELAND. Well, I think we would probably wait until we had seized that property to do the title check. We can usually quick-release these things without suffering any great damage. So I think we'd normally err on the side of seizing rather than not seizing.

Mr. HUGHES. Does the Justice Department support the recommendation of the General Accounting Office that we release the cap—remove the cap from seized cash?

Mr. COPELAND. Yes, sir. And we appreciate the efforts of the subcommittee last year to accomplish that. We were supportive of those efforts, and we certainly continue to fully support that as a very good amendment.

Mr. HUGHES. Do we need additional authority in the agencies to secure quick release of assets; that is, to make a decision that there is not equity in the asset and just release it, permit it immediately?

Mr. COPELAND. I'm not aware—

[Conferring with Mr. King.]

Mr. COPELAND. No. I'm not aware of any particular problem. Again as Paul King indicates, normally on the real estate that's going to have to be going judicial, so, in essence, it's a matter of going in and filing to dismiss the complaint against the property.

Mr. HUGHES. Is anybody looking at the decision by the various agencies to take assets in kind and seeing whether or not they are using them effectively? Is anybody looking at that?

Mr. COPELAND. Well, we have tried to put a lot of emphasis on that, Mr. Chairman, because we've been concerned about the potential for abuse. I don't know that the program has been a formal one, but we do try to encourage everybody not to do anything that could be seen—

Mr. HUGHES. So the answer is no.

Mr. COPELAND [continuing]. As an abuse.

Mr. HUGHES. The answer is no.

Mr. COPELAND. Well, again I think we have guidelines in place, and we are in essence constantly monitoring each transfer to make sure that there is a good law enforcement purpose.

I think one of the recommendations that the staff had at one point, which was an interesting one, concerned luxury vehicles in particular. Rather than retaining them for undercover use, perhaps we should be leasing those types of vehicles for a short term. And there are a lot of things that we'd be glad to work with you on in that area.

Mr. HUGHES. I'm not so sure I want to second-guess local law enforcement agencies who decide they need equipment, but I wouldn't want to see the same thing happen to us that happened with LEAA. That was free Federal money and everybody was buying all kinds of equipment, things they didn't need often, and we lost the entire program.

We're transferring a lot of assets to law enforcement agencies, and if they can be retrofitted and utilized effectively, there is no problem with that. If we're just taking assets, however, because we're trying to build up an armada and there isn't effective use, that would give me some concern.

Mr. COPELAND. It would give us concern too.

Mr. HUGHES. It seems to me that we need to be looking at that.

Mr. COPELAND. I think you're right.

Mr. HUGHES. The gentleman from Mississippi.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

Mr. Copeland, from listening to your testimony I would believe that apparently you think that because the Federal Government has a stronger seizure process or the ability to share assets with local agencies and would in one case conflict with North Carolina that we should not use the Federal statute. Is that correct?

Mr. COPELAND. I don't believe I intended to convey that, no, sir.

For example, in North Carolina I think there are many adoptive seizure cases that are brought to us for good law enforcement reasons, and that we should be able to forfeit those properties and share that money back with the participating agencies.

I think there may be others where the property is brought to us solely to get money, and in that circumstance perhaps that should not be allowed to occur.

Mr. SMITH of Mississippi. Why not? On the other hand, don't attorneys general in the States, State prosecuting attorneys and district attorneys come to you in the Justice Department or to the U.S. attorney because they don't have an adequate State statute to deal with other criminal offenses or white-collar crime or those things?

Is that also circumventing State law? If we're going to single out the asset forfeiture provision, why not take away all these others? Why can we say one is good use and the asset forfeiture program is not good use?

I can't understand that reasoning.

Mr. COPELAND. Well, maybe I'm not making myself clear.

I think, like I say, there are reasons. Perhaps the district attorney is unable to take the case for one reason. I think there are circumstances, as I indicated, where but for the Federal forfeiture

there would be no forfeiture. In those cases I don't think we are engaged in a circumvention activity.

And again I think you need to look at it on a case-by-case basis.

One of the questions we had, for example, was whether what was intended here was an objective standard, is there something we could all agree on as to when we have a case of circumvention, or is it a subjective standard; is there something like scientia, a particular police chief bringing this case to us because he subjectively intends to circumvent State law.

Again there's a lot of difficulties, obviously, in applying any kind of subjective standard. We don't want to become an outfit that's trying to police the local police. So that's why I think we need clarity in this area.

Mr. SMITH of Mississippi. But isn't that the same standard that if the local chief of police or the district attorney or the State attorney comes to the Justice Department and says, "Mr. U.S. attorney, will you try this guy; you can give him 25 years on this violation where I can only give him 10;" isn't that the same thing?

Mr. COPELAND. I think it is. I think that was what was coming out in some of the earlier testimony from the State officials. We engage in that type of planning.

Mr. SMITH of Mississippi. Every day, don't we?

Mr. COPELAND. We try to determine what is the most effective way to go and how can we get the most number of years for this really bad guy.

Words like "circumvention" don't come up.

And to the extent we arrive at something that we think is the most effective means of proceeding and start down that path and somebody comes in and says, "Wait a minute; you're circumventing State law," you know, our initial reaction is, "Huh?" Oh, OK, maybe we are, but that was never in our mind.

Again it's difficult to look at, I think on a generic basis. I think you've got to get down and look at the laws and the restrictions in a particular State and the manpower resources in a particular State.

It's very difficult to make this—to me—determination of circumvention except on an individual basis.

Mr. SMITH of Mississippi. Well, in retrospect, then, do you think we're circumventing the State law of North Carolina if those agencies want to come to the Justice Department and participate in sharing of assets of forfeitures?

Mr. COPELAND. No, sir. Obviously we have been doing those adoptive cases, and we have never thought that we were circumventing State law.

To the extent that the Congress had moved to correct us here, I can assure you the Congress now has our full and undivided attention. And we want to focus on this and see if we can come up with some system that makes sense across the board.

I think what we've got now is a problem again because the worst thing that could happen would be large numbers of lawsuits arising over our effort to direct money back to a particular State of local agency. I think that would be horrendous.

Mr. SMITH of Mississippi. For the U.S. attorney, Mr. Lehtinen: is the greatest slowup in the forfeiture process on the judicial side or on the U.S. attorney/United States of America side?

We keep hearing about these cases going to the U.S. attorney's office and then they don't hear anything or nothing happens.

Would you kind of give me your thoughts on that?

Mr. LEHTINEN. Well, generally speaking, the unjustified slowups, or the slowups that you're referring to, are mostly in the U.S. attorney's office, as I view our office in the present day; that is, prior to an asset forfeiture program being created.

For example, there were once 110 assistant U.S. attorneys, and it was cut back at various times to 94 and attrition brought it below 90 at one point. But there were only 20 assistant U.S. attorneys in the southern district of Florida in the Civil Division, out of 110.

That meant that the Civil Division was doing Federal Tort Claims Act, and covering the Veterans' Administration Hospital, an Air Force base, medical malpractice, all of those things. Those assistants at the same time were trying to do the asset forfeiture cases that came over judicially. Accordingly, there were considerable delays in certain cases.

Now, even the cases in which, however, the manpower was present moved slower in the Federal system than, say, a State forfeiture case would. Moving a forfeiture case to judgment within 1 year, even 2 years is—when all of the appropriate U.S. attorney resources are dedicated to it—still relatively quick.

If the forfeiture program is not to suffer the same delays that the normal civil cases in the Southern District of Florida suffer, then there would have to be some prioritizing, which I am not particularly recommending, but I'm saying in the sense in which the Speedy Trial Act moves criminal cases.

Our civil cases move as fast as every other civil case. But civil cases in the southern district of Florida will take 1 year or 2 or longer to get to trial.

The longer delays, however, are the product of a time when U.S. attorney offices did not have asset forfeiture programs, were not funded for them, and the civil assistants had to squeeze them in between medical malpractice cases and so forth, which in this district \$1 million, \$2, \$3, \$4 million of U.S. Government money is at stake in a medical malpractice case; they're not minor cases.

Mr. SMITH of Mississippi. How long have you been a U.S. attorney?

Mr. LEHTINEN. Since June 17, 1988, in the Reagan administration.

Mr. SMITH of Mississippi. Give me your thoughts, then, on a process that would solve the problem that we're talking about here today.

Would it be somebody in the U.S. attorney's office, a paralegal, a person to do the work; what would you say would be the answer from the U.S. attorney's standpoint to the problem?

Mr. LEHTINEN. Well, from the Southern District of Florida's standpoint—and I can't speak for other U.S. attorney's of course—but from our standpoint the creation of an asset forfeiture program, which we are going to do. The creation of an asset forfeiture section with attorneys who have expertise in that and are hired for

that purpose, who develop expertise in real property law, who know what the marshal means when he says he has a problem clouding title, because it's not too much to say that most of our assistants wouldn't know offhand what a "cloud on title" is to start with.

But I do not recommend it be contracted out. Assignment of assistant U.S. attorneys in the Civil Division who can develop that expertise, if we have enough assistants to do the job, is the best way to go.

In this district, for example, the controversy over adopted forfeitures is really not present. It's a national concern, but we have so few resources in light of the drug war that we rarely do a true adoptive forfeiture in this district, anyway, and when we do, we do it for policy reasons.

The U.S. attorney will make the decision, I made the decision, to file in excess of \$20 million in one seizure regarding certain ranches, and it was an adoptive forfeiture, but it would not be affected by the fact that that money could not be shared with the locals because that was a decision dealing with major importation of drugs. The law enforcement purpose of seizing the property was well demonstrated, and whether or not any could be shared with the locals would not have controlled that particular outcome.

Otherwise, we do not do many adoptive forfeitures. In fact, our rule, even though we cooperate—the Dade County sheriff, which is Miami, Dade County, is giving us a legal adviser whom we will cross-designate in our asset forfeiture unit in Miami. Sheriff Nick Navarro of Broward County is giving us a legal adviser whom we will cross-designate.

Both of those sheriffs have agreed quite readily that the only cases that they will be involved in are joint cases between the Feds and the State, to start with.

We have so many of those that the adoptive side would not be an issue here.

I cite that simply because it illustrates the workload crunch that many U.S. attorneys' offices are in. The Southern District of Florida is not unique.

And in that respect, if I had the resources to develop an asset forfeiture program supported by assistant U.S. attorneys who are dedicated to asset forfeiture—and we do have 12 coming on line, and I'd like to have 20 or 25 spread from Palm Beach to Fort Lauderdale to Miami—then I believe the delay problem would be considerably alleviated, as well as administrative forfeitures of uncontested matters.

But it is basically a manpower issue, as well as some confusion regarding the developing law. But we can clear up that confusion. We can get the judicial precedent; the eleventh circuit gives us the precedent. It's really a manpower issue for all of our offices, I believe.

Mr. SMITH of Mississippi. OK. The last question, Mr. Chairman.

The gentleman from the FBI is—right here.

And your name again, sir?

Mr. GAVIN. Bill Gavin.

Mr. SMITH of Mississippi. Bill, in FBI training programs, Federal training programs, at Glenco, at the FBI Academy, in the asset for-

feiture schools do they teach Federal, State and local officers on title searches and those things in that curriculum?

Mr. GAVIN. No sir. I don't think we do at the present time. I think what we have to understand is that it's an evolving educational thing for all of us.

This particular office, the Miami office, is one of the first to implement a FAST system, a forfeit asset seizure team. We have a squad devoted to nothing but that, trying our very best to do what we should be doing on the front of a case to that point that's logical and judicial to do.

By that I mean in many instances you can't come out of the woodwork until the arrest is made, until the seizure is made. You can't do a lot of that because it doesn't work with the individual that you're looking at in a long-term case. So many times there is a very valid reason not to proceed.

We in the FBI are now trying to have some of those things available to us in-house—descriptions of property, real estate records, things of that nature—so that we can do as much as we possibly can with records that are available before the case actually comes to fruition and before it becomes overt.

We have a training class going on next week in San Francisco based on asset forfeitures. We've done a number of them throughout the United States right now. We're in an evolving educational process.

Mr. SMITH of Florida. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. SMITH of Mississippi. Thank you, Mr. Chairman.

Mr. Copeland, you seem to be trying to skirt the issue of making a definition, or maybe the Justice Department hasn't yet.

But it seems to me that this amendment, section 6077, was fairly straightforward. I think 90 percent of the discussion has been on joint matters, which we've almost disposed of.

Everybody seems to agree that on joint cases and joint investigations alike the transfer of assets wouldn't be in circumvention and, where the Feds are the agency that has somehow the better capability for a number of reasons—or the only capability—to prosecute a particular crime, when it's brought there, then the disposition of assets wouldn't be transferred to circumvent any requirement of State law.

The question is whether or not it's in a situation where it's basically a State case and it's brought to us; although it could be prosecuted elsewhere, although the assets could be forfeited within the State, it's brought to us anyway.

But it says the Attorney General shall assure that the property transferred is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

So it's fairly clear that, where the State hasn't spoken, there wouldn't be any circumvention, but where a State like North Carolina says you can forfeit but if you forfeit it goes here and somebody brings a case to the Justice Department for the purpose of prosecution or forfeiture and there's no reason they, A, can't forfeit within the State, and B, can't prosecute within the State. Then a

red flag ought to run up in the Attorney General's Office somewhere when they're making that decision, don't you think?

And that's what it says.

And that's a fairly objective standard. It's not that subjective.

Mr. COPELAND. I think it's fairly straightforward, Mr. Smith.

But the problem is, for example, in the area of equitable sharing. There's a provision that says the decision of the Attorney General is not subject to judicial review.

Now, here we do not have such language. Here the Attorney General might determine that there is no circumvention and yet someone—and I think very likely someone will in many States—will challenge that; we're going to have litigation.

That's what we're really concerned about, sir. That's what we can't control. We cannot—

Mr. SMITH of Florida. Well, can I ask you—

Mr. COPELAND [continuing]. Control the courts.

Mr. SMITH of Florida. Can I ask you, if that's the case, why we haven't had litigation already?

We've had 4 years of adoptive—5 years of adoptive forfeitures.

And you're telling me that all of a sudden there's going to be a spade of lawsuits when there wasn't before, when people, you're telling me in North Carolina weren't smart enough to realize that the school forfeiture fund wasn't getting money from forfeitures because it was going to police agencies which were illegal under the State or under the appellate division case law?

I don't understand why all of a sudden it's going to open the door when it could have been opened before by anybody who had half a brain and was looking at it.

Mr. COPELAND. We've had litigation before in North Carolina, and we prevailed in that litigation because it was a Federal forfeiture and the courts looked at the Federal forfeiture and the supremacy clause and said, "We don't have any power over this."

Now, this legislation—

Mr. SMITH of Florida. Nobody brought a Federal case?

Mr. COPELAND [continuing]. This statute—I'm not aware of any Federal case.

Mr. SMITH of Florida. I see.

Mr. COPELAND. This statute invites the State courts in, I believe, and that's our concern.

Mr. SMITH of Florida. How would a State court holding against what the Federal Government had done create a bar on the Federal Government doing it; would you mind telling me?

Mr. COPELAND. Well, the State court—

Mr. SMITH of Florida. Or is that the Ed Meese theory of—

Mr. COPELAND. The State court could order the county sheriff to turn over the property that we had given him to the State education fund. I think the State court would have power to do that.

Mr. SMITH of Florida. Once it's in his hands.

Mr. COPELAND. Yes.

Mr. SMITH of Florida. That's correct.

Mr. COPELAND. That's correct. That's right.

Mr. SMITH of Florida. Well, probably that would only happen once, wouldn't it?

Mr. COPELAND. Well, if it happened on a regular basis, right, there would be no more forfeitures, so——

Mr. SMITH of Florida. It would only happen once, I can assure you.

Mr. COPELAND. From that particular agency.

Mr. SMITH of Florida. Well, personally my own opinion——

Mr. SMITH of Mississippi. Will the gentleman yield?

Mr. SMITH of Florida. Sure. I'll be happy to.

Mr. SMITH of Mississippi. In that regard, though, if there's also a question, Larry, on State law, couldn't the State auditor in North Carolina tell the sheriff to do that?

Mr. COPELAND. He could. But in North Carolina.

Mr. SMITH of Florida. Or in any State, I think the State auditor has got the authority to do it, if that office is violating the law.

Mr. COPELAND. In North——

Mr. SMITH of Florida. In Florida they don't have that power.

Mr. SMITH of Mississippi. They do in Mississippi.

Mr. COPELAND. In North Carolina there is a State attorney general's opinion that says——

Mr. SMITH of Mississippi. Thank you.

Mr. COPELAND [continuing]. Adoptive sharing is not in contravention of State law or the State constitution.

So there the State attorney general had determined—this goes back, I think, to 1985—that that was not in violation of State law. So we had that to reply on.

But that did not prevent people from going into court, and in fact there were cases in North Carolina.

Another point, let me make this point, because I don't think this came through in what the others were saying, and that is: Many times this shared property or the shared money is turned back by the local law enforcement agency into further drug investigation, resulting in further forfeitures.

So to the extent, for example, that the idea is, "Hey, we're frustrating the State education fund in North Carolina," that's not the case.

If we did not have a sharing program, there would be very few forfeitures in North Carolina; the State education fund would be getting 100 percent of a few thousand dollars.

As it is, because we're turning that back in, it's not just a matter of a reward. They put that back into the program. They pay overtime so people are looking up and down I-95 to catch the dopers. They pay overtime.

They hire new agents who go out and trace proceeds so they can identify forfeitable property that they would not otherwise know about and seize it.

Mr. SMITH of Florida. Mr. Copeland——

Mr. COPELAND. In essence I agree with what the State people said, that this provision overall has an adverse effect on the national law enforcement efforts.

Mr. SMITH of Florida. Mr. Copeland, we know that most of these assets are utilized very well back into the system. We know they don't go into the sheriff's fund and sit there; they do something with them.

And for the most part, if two-thirds of all crime involves drugs, at least in Florida, that means about two-thirds of the crimes they're going to investigate subsequently with some of the use of that money are going to be drug crimes that it's going to lead to additional asset forfeitures and seizures.

We understand that.

The question is whether or not the Federal Government has in fact by virtue of this amendment been barred from doing certain things or has just been given a greater circumscription to look at what they are doing and make sure that when they do it, it is not circumventing a requirement of State law either prohibiting forfeiture or limiting the use of disposition.

That's all, and that's something that I think can be done.

Now, if we have to go further and do something to change the law to make it imminently clear, then maybe we ought to do it because those folks can use that money, they've been doing hard work, they have been earning it, and I don't see any reason not to do it other than I don't think we ought to be putting ourselves in a position of circumventing what the State has otherwise spoken out about.

Mr. COPELAND. Mr. Chairman, you ought to know that Mr. Lehtinen and I are friends for a long time. When he came to the legislature, he was a very, very important part of my Criminal Justice Committee.

We didn't always see eye to eye on every issue, and he occasionally would raise issues which ultimately we needed to take care of, and his knowledge of law is tremendous.

I'm asking you, though, in this particular instance if in fact you've already any time in the past since you've been there—and I know you haven't been there that long, but I, unfortunately, remember the time when Mr. Kellner was sitting in that seat and before him Mr. Marcus—whether you've discussed the problem of judicial forfeiture, on the cases where you've had quite a lengthy period going on individual cases, with the judges sitting in the district court, whether you've suggested any kind of calendar for uncontested cases, like a default calendar, whether they'll put things on en masse at a particular time, and whether you have designated some of your staff to work on nothing but forfeiture cases.

Mr. LEHTINEN. Yes. With respect to speaking with the judges, Judge King, the Chief Judge in the district, has raised with me—and several of the others have as well—how many forfeiture cases my 12 asset forfeiture lawyers are expected to produce and what kind of workload problem that will create.

There is some reluctance to create particularized calendars and divisions in the court. The Federal judges, as you may know, have—no district that I know of has developed any civil or criminal division, for example, and they all like to get cases legitimately of a certain variety.

Now, they did on habeas corpus and 2,255 motions designate one magistrate to handle them. Judge Marcus has asked me whether or not I would recommend any system by which the Federal Magistrates Act capabilities are used to deal with forfeiture cases.

But fundamentally the contested forfeiture cases are the ones that I will have the most trouble moving rapidly. The errors that

have been committed in the past, the failure to dedicate resources and track cases, the loss of judgments of something like that are matters that we should take care of administratively.

With respect to the contested cases, one area of difficulty will simply be getting the cases to trial fast enough.

The kinds of cases that are tried in the Southern District of Florida—for example, the one, Mr. Chairman, you mentioned in which bank liens are usually legitimate—that's the case.

But we have \$800,000 bank liens that we allege were done with the knowledge of a major bank for the purpose of laundering drug proceeds.

And that litigation results in considerable trial time, witnesses, DEA agents' testimony. And with the crunch on the judiciary, getting those cases to trial—they cannot go to a magistrate—those kinds of contested cases should probably not be on a special calendar.

So we haven't gone forward with any resolution, but we've talked about it.

With respect to assistants, we do have 12 assistant U.S. attorneys assigned to asset forfeiture. They were funded through the drug bill. They've been hired, sworn in. They're coming from around the country. We've made every effort not to hire too quick to get people we're stuck with for years who wouldn't do the job right. And some of them have gone to asset forfeiture training conferences and so forth.

One interesting note, though, at least on forfeitures here and in many other districts, is that the litigated forfeitures are defended by the best attorneys in this town, bank attorneys.

The defense of a case that's going on now on at least a \$7 million ranch property, where the trial finished last week, is defended by very good outside counsel.

And the initial arrival of our 12 asset forfeiture lawyers is not going to solve our problem immediately. Since it is such an effective tool, it will require us to develop skills among these lawyers. And we think it'll take 2 years of litigating smaller asset forfeiture before those lawyers are—

Mr. SMITH of Florida. I can understand that.

Do you think there would be any benefit in setting a default calendar on these uncontested cases; are you having any trouble getting them before?

After all, according to the GAO, we still had an 8-month lagtime on uncontested money cases of over \$100,000.

Mr. LEHTINEN. Well, I listened to the GAO. I'm not sure that that's uncontested after we filed the judicial action. I'm not sure it was 8 months after that time.

We really have no excuse if it's 8 months after we filed. The judges will hear and will issue default judgments quickly, uncontested judgments very quickly.

The problem is contested judgments. And the other problem is the U.S. attorney's office processing it, receiving the information and between us getting it and filing the case, and also considerable delays before we get the information because money seizures sometimes are very ambiguous.

The money is seized in large amounts; a \$7.9 million seizure just a couple of weeks ago in this district, mostly Canadian, but substantial, with \$2, \$3 million American.

The circumstances of those seizures are often such that there's an ongoing case, you don't want to reveal the confidential informant's name or information, and sometimes the agencies have that money a considerable time prior to referring to us.

I'm not being critical there, but I know that as a factual situation.

And then with our workload in the past—not so much now because your passing of the drug bill and creating asset forfeiture positions is going to abolish our excuses, but in the past—the workload between the assistant getting it and even an hour's record check would be too much when that assistant is literally in constant medical malpractice and so on.

Mr. SMITH of Florida. There were some allegations by previous speakers or the GAO that there was some difficulty in coordination and cooperation once a case is turned over to you by some of the other agencies for forfeiture.

Do you find that's a problem? Are you personally aware of any difficulty that those people have in getting responses from your staff?

Mr. LEHTINEN. Well, they have problems getting responses sometimes, depending on the particular assistant U.S. attorney and the capability of that assistant and, you know, how good the assistant is.

But the terms "coordination" and "cooperation" are elusive terms. The main problem in the Southern District of Florida has been that there were no dedicated asset forfeiture lawyers, line-item dedicated. The manpower did not exist to provide the kind of review and return to the agencies when they would ask questions because, after all, every dedication of a resource has an opportunity cost.

If they in fact traced their particular cases better, there would be some other case that they did not do properly; they might settle a medical malpractice for \$1 million that they should have settled for \$100,000.

The problem—once it comes in our office, it is our office's problem—is the failure to either dedicate available resources to it or the lack of having those resources. Otherwise we really have no excuse, once we get it.

Mr. SMITH of Florida. Well, is there a problem or isn't there?

I mean that's a very nice answer, but it hasn't—

Mr. LEHTINEN. Well—

Mr. SMITH of Florida [continuing]. Told me what I want to know.

Mr. LEHTINEN [continuing]. There has been—there has been historically, that the Civil Division, one of the smallest civil divisions—well, the smallest civil division for a district this size in the country, because narcotics prosecutions have driven the engine in this district—is in fact, shortchanging white-collar fraud, shortchanging every kind of crime and civil defense work in favor of narcotics prosecution. There has been a problem in the past.

It's difficult to say whether with the advent of an asset forfeiture section and our figuring out how we ought to run it, and the cre-

ation of a program where we have specified responsibilities, we will develop the expertise to know where money is going and so forth—I mean I have orders out now to develop a management information system for asset forfeiture in the Southern District of Florida.

It has not been developed because some of the very attorneys who have to develop it are still in the pipeline. But 1 year or 2 years from now is a point at which we would be able to explain whether or not 12 asset forfeiture lawyers and the development of a program has eradicated most of the inadvertent error that occurred when those cases were assigned randomly to the Civil Division to medical malpractice lawyers, with the same lawyers doing both environmental lawsuits and asset forfeitures.

I don't think 12 lawyers will be enough by any means, but we will know a year from now whether there are systematic problems or whether it was simply our failure to address the issues.

These issues are not overly complex. There are areas of law that are—

Mr. SMITH of Florida. Well, Mr. Lehtinen, you know, that remark is what I'm sitting up here thinking for the last 20 minutes or so, since Mr. Copeland's testimony.

These aren't overly complex. And it keeps bothering me, although the chairman said we're making progress. I'll tell you what: I don't know how much progress we're making.

These're the same excuses that we heard over and over and over: We're trying; we're getting better at it; we're doing this.

Still, there is no management system of the whole picture from the top. That should have been done right away. I don't know how you're going to manage billions of dollars, ultimately, worth of assets without some significant management system, and it still isn't in place.

And it's really very disturbing because all of the money that's in that pipeline is important and any siphoning-off ultimately results in delay. This means that there's less money to utilize, not only at the Federal level but also for the State and local people.

And it just bothers me that we keep hearing the same thing: "Oh, we're trying, and, you know, we've got progress, and there's a management system coming on line, and we've got this computer thing and now it needs to be integrated."

And we sit her year after year listening to that.

I don't know. Businesses go on. They come in. They get all this expertise and help, and they go into business and they do their job.

And why at our level, at the Federal level, somehow there doesn't seem to be the capability of putting online, once you're getting fed a lot of money to do this—put online some systems, which mean a very effective management of all of these problems.

We didn't ask it 6 months ago. We didn't ask it a year ago. We asked 5 years ago.

Mr. LEHTINEN. Well, if I might say one thing, Congressman.

Mr. SMITH of Florida. You've haven't been there. I can't blame you for that.

Mr. LEHTINEN. Well, I think that—

Mr. SMITH of Florida. But I will in 1 year of 2.

Mr. LEHTINEN [continuing]. Your points are well taken, Congressman.

But one thing that business does have the capability of doing. If they develop an efficient program and start to make some profit, they benefit and can use that profit to fund their agencies.

In the Southern District of Florida, if we were permitted one-tenth of the assets that any particular civil asset forfeiture attorney recovers that otherwise would not have been recovered but recoverable because of the marginal utility of that additional attorney, then we would have no difficulty in moving forward.

Of course, the new bill moves in that direction and allows Justice to benefit some from the forfeitures, but that's a particularly important aspect down here.

Plus, I will say that, while I don't dispute particular figures of the General Accounting Office, actually most of the cases move quite well.

There is no overwhelming difficulty in the Southern District of Florida, unless you pick out particularized cases and ask why they were delayed a particular time—sometimes there is a reason and sometimes there is no excuse; it's inadvertent error—but the amount of assets that move through the marshals pipeline efficiently and effectively are sold.

We have a few identifiable cloud-on-title problems that we work with the marshal on. But the number of properties that he sells that have no cloud on title I think is testimony to the efficiency of the program.

Mr. SMITH of Florida. Mr. Chairman, I don't want to take up any more time. I would like to say one thing, however.

I believe Mr. King is here from Washington?

Mr. KING. Yes, sir.

Mr. SMITH of Florida. Mr. King, are you responsible for the DEA letter that was given to us by the head of the Florida Department of Law Enforcement?

Mr. KING. Fortunately, sir, I'm with the FBI, so, no, I'm not.

Mr. SMITH of Florida. Is there anybody here from DEA, legal counsel?

Mr. SNIDER. Yes, sir, I'm William Snider.

Mr. SMITH of Florida. Mr. Snider, I—Chairman Hughes. Why don't we do this?

Will the gentleman yield?

Why don't we bring up Mr. Cash?

Mr. SNIDER. Mr. Cash isn't here.

Mr. HUGHES. I thought he was here. I thought Mr. Cash was in the audience.

OK. Go ahead. Gentleman from Florida.

Mr. SMITH of Florida. I don't want to take the time, because we still have Mr. Riley from the Customs Service, but I was wondering whether, Mr. Chairman, at some point in time in Washington we couldn't hold a hearing at least a small hearing, on the interpretation of 6077, if we have to address it, and whether Mr. Riley in fact couldn't come because some of the legal conclusions in that letter seem to me slightly away from the thrust of what the amendment was, and I would like to get some time to hear what he has to say about why cases that differ on burden of proof would wind up being impacted under this amendment.

So at some point I think we'd like to hear from him, if we could do that.

Mr. HUGHES. Well, I think we can certainly find out the genesis for the letter.

Do you happen to know at all?

Mr. SNIDER. Not in detail, sir.

Mr. HUGHES. Well, as I said, to the gentleman, I think it was just an instance of trying to get the attention of the local law enforcement agencies.

Mr. SMITH of Florida. This isn't even a 2-by-4, Mr. Chairman. This is a small safe being dropped on you from 20 stories.

Mr. HUGHES. I think the answer is to try to work with the Justice Department and develop some objective guidelines that are acceptable, that will address some of the problems that perhaps might not have been contemplated.

I think we know in some instances when the Justice Department just retains 10 percent, which is to cover cost, and 90 percent, goes back to the State agency, that's just a subterfuge. Unfortunately, that's what we've been experiencing in parts of the country.

I think everybody knows the kind of cases that we intend to prescribe and that we never intended to reach the cases where there was truly a cooperative effort.

And I think we can perhaps convene a hearing if one is needed, but certainly I think in the meantime we'll try to work with the Justice Department to develop something that makes sense.

Mr. SMITH of Florida. Thank you, Mr. Chairman.

Mr. HUGHES. I just have a couple of more questions.

Mr. Lehtinen, insofar as the decision as to whether to move a matter judicially or administratively, what are the guidelines that you generally follow in that?

Mr. LEHTINEN. Generally speaking, Mr. Chairman, if it's real property, it must proceed judicially at any amount; if it's a seizure of less than \$100,000, it generally can be done administratively; if it is a vessel or a vehicle or a boat or a plane that was an instrumentality, as Congressman Smith has referred to, you know, in the course of the arrest, if the vessel was an instrumentality, typically carrying drugs, then that can be seized administratively no matter what its value.

Those are the general approaches that are used.

Now, when we say "can proceed administratively," we mean it is not required that we file judicial. If someone contests it, they can move it into the judicial arena because of their rights, of course, to have a judge decide their property rights.

Mr. HUGHES. Your office apparently receives a monthly report from Customs requesting an update on their cases.

Are you familiar with the form that they file?

Mr. LEHTINEN. I'm familiar with the fact that we receive it.

Mr. HUGHES. They tell me that your assistant U.S. attorneys often respond orally to those requests.

Mr. LEHTINEN. Yes.

Mr. HUGHES. It seems to me that that's setting the stage for matters falling through the cracks. When you don't have at least some trail that we can track, many of the cases just seem to go from month to month to month to month without any action.

Mr. LEHTINEN. Mr. Chairman, I think that's true.

The problem historically, though, has been that any response in writing would require the secretarial resources that do not adequately exist in U.S. attorneys' offices, even our word-processing capability is very low, and the time that the attorney would take to respond in writing has come from something else.

Mr. HUGHES. Well, it takes Customs time to request that information, too. They have to commit resources and, frankly, they have the same resource strain, I'm sure, that Justice has.

It just seems to me that we don't have a very good system of tracking. I realize, however, that the additional resources we provided in 1988 will certainly help us develop the kind of seizure teams that we need to have.

Do you envision somebody in your office being responsible, some—

Mr. LEHTINEN. Yes.

Mr. HUGHES [continuing]. Individual that we can—

Mr. LEHTINEN. We have created a separate section in the Civil Division known as the Civil Enforcement Section, and we have a chief of that section who is going to be responsible for reviewing everyone's caseload monthly and making sure that cases—such as where we got a judgment in 1987 and the marshal didn't get it until 1988 or 1989—for making sure that those cases are reviewed monthly and no case stays without an articulated reason.

Mr. HUGHES. So sometime next year we're going to be able to bring somebody in here and ask them some questions about specific assets—

Mr. LEHTINEN. Yes.

Mr. HUGHES [continuing]. And what's happened to that asset; we'll have somebody responsible.

Mr. LEHTINEN. Yes.

Mr. HUGHES. Not that we don't have already. I mean the buck stops with the U.S. attorney.

Mr. LEHTINEN. But you're correct. We will have named a Chief of Asset Forfeiture who has all asset forfeiture resources throughout this district under him.

And I've already told him that he should expect to answer a lot of questions a year from now.

Mr. HUGHES. Gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, that's a very, very important question.

I was wondering if the Justice Department representative would answer the same question.

Mr. HUGHES. I asked him previously, and Mr. Copeland said he wasn't the person.

Mr. SMITH of Florida. I understand.

But is there anybody who is in charge of asset forfeiture overall, and what is the Justice Department doing trying to get a completely standardized approach in every district in the United States where they have a U.S. attorney?

Is it going to be so you could call Mr. A in Arizona in the northern district and Mr. Lehtinen in the Southern District of Florida or Mr. "Whoever" in another district in New York and have the same

system on-hand on-line so that you could get the same information flow both up and down?

Mr. COPELAND. As for the first part of the question, the Associate Attorney General is generally responsible within the Justice Department for forfeiture activity.

As for the second, in terms of the management reporting system, we do have one that should have been in place by now. We call it Atrack, which is a computer system that—

Mr. SMITH of Florida. Did you say "off-track?"

Mr. COPELAND. Atrack. It is off-track right now, sir. You're absolutely right.

But the purpose of it is not only to be able to provide comprehensive reports but to identify cases that appear to be suffering from lack of attention.

So that should have been in place by now. It is now, and we're continuing to work to try to get that system up and running so it can do the job. But we don't have it today, I have to concede.

And I've got to say also that a number of your comments were, I think fair comments. We have in several instances here come up and in essence had the same answer for a couple of years running, and what can I say except we're going to do better.

Mr. HUGHES. Mr. Copeland, we asked you about 45 cases, and I wonder if you'll supply for the record—the record will remain open—the responses as to where those cases are in the process and why they're being help up.

[The information appears in the appendix.]

Mr. HUGHES. I'm happy to hear, Mr. Lehtinen, in response to my colleague from Florida's questioning that at least there's some dialog with the district court toward trying to maybe developing a special calendar, perhaps using magistrates.

There is no reason why we shouldn't use magistrates, I would think, particularly with some of the judicial forfeitures.

Is there any reason that we should not be?

Mr. LEHTINEN. Mr. Chairman, I'll have to refresh my recollection on the Federal Magistrates Act, but a civil case of certain magnitude can go to a magistrate only if there's agreement of the parties.

And these cases that involve half a million, a million dollars cannot go to the magistrate unless there is agreement.

Certain judges do not use the Federal Magistrates Act for even pretrial matters, and other judges, Judge Spellman, for example, sends all of his civil pretrial work to the magistrates.

It depends a great deal on the judge, judge's personality, whether they will use magistrates for preliminary matters, and then agreement of the parties is necessary to have the case tried by the magistrate.

Mr. HUGHES. I see. OK.

OK. That's all I have.

Well, thank you very much.

We appreciate your testimony.

We'd also like, if you would, Mr. Copeland, to provide for us perhaps some information insofar as where Mr. Cash received his information to write this letter to the chiefs of police in the area.

Mr. COPELAND. Let me say I think, Mr. Chairman, that the effort there was to try to identify, if we end up in various States in litigation, what kinds of opinions could you conceivably——

Mr. HUGHES. All I asked was I'd like to know where Mr. Cash received the information that's incorporated in this letter to Ed Spooner, who is the chief of police in Quincy, FL.

Mr. COPELAND. We can supply that, yes, sir. We will.

Mr. HUGHES. All right. Thank you.

Thank you very much.

Mr. COPELAND. Thank you.

[The prepared statement of Mr. Copeland follows:]

PREPARED STATEMENT OF CARY H. COPELAND, DEPUTY ASSOCIATE ATTORNEY GENERAL,
DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Subcommittee --

I appreciate the opportunity to appear this morning to discuss the forfeiture activities of the U.S. Department of Justice. Perhaps more than other witnesses, I have first-hand knowledge of the vital role which this Subcommittee has played in the crafting of modern forfeiture law and of the substantial time and effort which you have devoted to overseeing our implementation and use of the statutes which you have given us. Law enforcement and, I believe, the public at large have benefitted enormously from your efforts.

UPDATE ON DEPARTMENT OF JUSTICE FORFEITURE PROGRAMS

Since the Department's last appearance before this Subcommittee regarding forfeiture, we have undertaken a number of initiatives which we believe advance the interests that we all share. First, we have sought further expansions in the range of criminal offenses which trigger forfeiture. The Administration's legislative proposals related to the savings and loan problem include proposed expansions of forfeiture in the area of financial institution fraud. I expect that we will be proposing forfeiture authority in still other areas in the months ahead. In sum, the law enforcement tool which forfeiture represents has

been made available for use against additional varieties of criminal activity.

Second, we are continuing to improve our ability to identify, seize and forfeit properties subject to forfeiture. Last year we announced the DEA Asset Removal Teams which were being trained and put in place in selected areas. These DEA teams have proven highly effective and are contributing substantially to DEA seizures. As a result, we expect DEA to seize property valued in excess of \$1 billion in Fiscal Year 1989. Similar FBI units, known as FAST teams, are being trained for deployment shortly. In fact, a FAST team training conference is commencing today in California. In sum, we recognize the criticism that we have in the past seized only "what is on the table" and have made substantial progress in our efforts to locate, seize and forfeit properties subject to forfeiture under federal law. I submit that Operation Polarcap is an excellent example of our increasing sophistication in the area of identifying and seizing hidden assets.

Third, we are substantially increasing our resources devoted to asset forfeiture in an effort to expedite processing of those properties which have been seized. The most dramatic resource enhancement is in our United States Attorneys' Offices. The Anti-Drug Abuse Act of 1988 included funding for 175 new Assistant United States Attorneys and 175 new support personnel.

Over 130 of these new attorneys are on board and we hope to have the balance hired and at work by June 1. The hiring of support staff is proceeding but more slowly as clerical and paralegal employees are covered by all civil service rules and procedures whereas attorneys are excepted service employees. We have conducted five training conferences and trained over 300 supervisory and line attorneys. We have scheduled several more training sessions, including basic and advanced courses, for the balance of the fiscal year for attorneys and support personnel. Also, we are developing video training materials to allow us to reach an even greater audience.

The FBI has devoted substantial resources to processing of forfeiture cases, including the administrative forfeiture of properties requiring no judicial action. We believe the FBI processing system is working smoothly.

DEA's Headquarters forfeiture operation has experienced difficulties in complying with the Department's processing deadlines. Several factors account for this difficulty including the fact that DEA was funded at less than the President's budget request for FY 1989, the dramatic increase in DEA-generated seizures, and limited space available in the existing DEA building. DEA has detailed employees into its forfeiture unit to the extent space is available and additional space will be available when the DEA forfeiture unit moves into the new DEA

building shortly. Further details of employees to DEA are planned in May and in June to attack the case backlog. In addition, DEA is arranging for an outside management review of its forfeiture operation to identify measures which can be taken to expedite processing. We believe this combination of initiatives will enable DEA to reduce its current backlog.

INS has experienced a 21½ increase in seizures so far in FY 1989. Contract employees will be brought on board shortly to assist in processing of INS forfeitures.

An important new resource to all Department of Justice components is the support service contract into which we have entered with Ebon Research Systems. This makes available contract employees to assist in the processing of asset forfeiture cases. Under the contract, the Asset Forfeiture Office of the Criminal Division, for example, has 11 contract employees comprised of one project supervisor, 4 data analysts, and 6 data entry clerks. DEA now has 21 contract employees assigned to the Asset Forfeiture Office and plans to add 25 more such employees as they are processed, cleared, and trained. The FBI, Marshals Service, and the United States Attorneys have placed orders for a total of more than 200 additional contract employees, some of whom are already coming on board. This contract will free our personnel of much of the record-keeping,

paper processing, and other ministerial tasks associated with forfeiture.

In sum, we are making substantial progress toward securing the human resources we need to expedite the processing of our burgeoning numbers of seizures. While we still have a way to go on all of these fronts, I believe the overall picture is more favorable than at any time in the past.

Fourth, we will be taking actions within the next few weeks to update and streamline our forfeiture guidelines and operating procedures. These changes will, I believe, prove beneficial, particularly in speeding the processing of equitable sharing by reducing the number of sharing cases requiring headquarters approval. We will supply the Subcommittee with copies of our revised guidelines and procedures as soon as the current review process is complete.

LEGISLATIVE NEEDS

There are several areas where we need the assistance of the Subcommittee in adjusting current forfeiture laws. The most urgent need relates to the anti-circumvention language set out in Section 6077 of the Anti-Drug Abuse Act of 1988. We have met with the Chairman and Ranking Minority Member of the Subcommittee to express our deep concerns and our sincere desire to work with

the Subcommittee on an agreeable resolution of this problem. Suffice it to say that we believe the equitable sharing program is one of the most important law enforcement initiatives in decades, a program which has accomplished near miracles in enhancing federal, state and local law enforcement cooperation and coordination. We simply cannot put these gains at risk.

As in the past, we also favor legislation to increase or remove the dollar cap on the administrative forfeiture of currency and other financial instruments. In addition, we continue to support the provision of statutory authority to warrant title as we believe that this will significantly enhance revenues from the forfeiture and sale of real property. Another significant item is the need for recognition of forfeiture-related award payments as uncontrollable expenses for purposes of our appropriations bill. Such payments are authorized by 28 U.S.C. 524(c)(1)(C) and are a direct "business expense" of locating and forfeiting assets. These award payments are similar to making equitable sharing payments except that the assistance was provided by a private party. As we accelerate the seizure and forfeiture process, a greater number of our commitments to make these payments will come due. Retaining these expenses as subject to the annual appropriation limitation will act as a disincentive to the prompt and aggressive forfeiture of illicit assets.

CONCLUSION

Forfeiture is one of the most powerful and effective weapons available in the fight against crime, and equitable sharing has helped to bring about a sea-change in the relationship among federal, state and local law enforcement. It is less than five years ago that Congress approved the amendments that brought forfeiture into the modern age. When those amendments were enacted in 1984, we counted annual forfeitures in the tens of millions of dollars; FY 1989 will see federal seizures valued in excess of a billion dollars. The past five years have been trying ones for us as we have strived to push ahead at all points on the forfeiture front, sometimes learning as we went. While we do not claim to have achieved perfection, I believe we have made dramatic progress and that this is a tribute to our attorneys, agents, and support personnel who have had to learn new techniques and skills.

Yet federal forfeiture is only beginning to realize its full potential. When attacking a problem such as drugs of almost incomprehensible magnitude, we are taking on what is estimated to be a \$100 billion per year business. And as noted above, Congress has extended forfeiture authority to additional areas such as child pornography and money laundering. The volume of property subject to forfeiture is staggering. As we move forward, we do so with a deep appreciation of the necessity that we do so prudently and with an abiding respect for the Due Process rights of property owners. The constant need is to maintain a proper balance. Your thoughtful oversight has been of inestimable value to us in our efforts to achieve and preserve that balance.

My colleagues and I will be pleased to attempt to respond to any questions which you may have.

Mr. HUGHES. Our next panel is led by William F. Riley, who is the Comptroller of the U.S. Customs Service and has been since August 1987.

As Comptroller, Mr. Riley is responsible for all Customs administrative functions, including financial management, program analysis, personnel, contracts and procurement, facilities management, and data systems.

Mr. Riley began his Government career in 1969 with the Defense Intelligence Agency. In 1971 he transferred to U.S. Customs, where he worked in the Office of Enforcement Intelligence Division and Office of Enforcement Support.

In 1980 he transferred to the Office of Planning and Evaluation at the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, and in 1982 returned to the Customs Service, working in the Office of International Affairs as Director, International Programs Division.

Mr. Riley, we welcome you here today.

Your statement, without objection, will be made a part of the record.

We hope you can summarize for us because we've read your statement.

Mr. RILEY. OK.

Mr. HUGHES. And introduce, if you will, your associates.

STATEMENT OF WILLIAM F. RILEY, COMPTROLLER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY BROOKS THOMAS, SUSAN WOOLEY, THOMAS MATTINA, LORETTA GOERLINGER, AND JERRALD WORLEY

Mr. RILEY. Mr. Chairman, to my immediate left is Brooks Thomas, who is the Regional Counsel for the Southeastern Region; Susan Wooley of the Fines, Penalties, and Forfeitures Office in the Miami district; Thomas Mattina, District Director, Miami; Loretta Goerlinger, Director, Office of Logistics Management in Washington; and Jerrald Worley, who is taking the newly established position of Headquarters Manager for Fines, Penalties, and Forfeitures [FPF].

I would like to make just a couple of comments, Mr. Chairman, because I realize that you have my statement.

First of all, we would like to commend, once again, the excellent work that was done by the GAO team. They have been diligent and very constructive for us.

I would, however, suggest that they not use the word "they" in their testimony because we have in fact made considerable progress.

We now have vendor systems installed and operating with a contractor.

We now have, for the first time, headquarters' oversight of the Fines, Penalties, and Forfeitures function in Washington.

We've added 100 positions this year to the Fines, Penalties, and Forfeitures function within the district.

We do have a mandated real property—real estate preseizure planning process that we use our contractor. It has worked exceedingly well.

If you look at our inventory, we have 41 pieces of real property with a value of somewhere over \$7 million and a net equity of over \$5 million.

If you look at the value that's put on the real property by the seizing agent and the value that we then get from a fair market value assessment, there is a very small difference in that figure.

Admittedly, we only have 41 real properties. We have considerably less than what the Marshals Service has.

And we've made very considerable progress in the rapid deposit of seized currency and monitoring of assets into Treasury accounts.

If you have any other comments, Mr. Chairman, we'll be glad to answer any questions you might have.

Mr. HUGHES. Well, thank you, Mr. Riley.

I don't know whether you were in the room when I thanked the Customs Service for their assistance yesterday.

Mr. RILEY. Yes, sir, I was.

Mr. HUGHES. Mr. Mattina in particular and one of his people were very helpful to us. And we appreciate that. I know it was their day off and we appreciate their taking us to the various marinas, marina locations, and to the airport to look at some of these assets.

I asked specifically about some assets, some of the older assets in particular, and Mr. Mattina was going to pull files.

I wonder if he has done that so we can talk about the *Antares* and a number of other vessels and give me some idea of why we've had them in inventory for so long.

Ms. WOOLEY. Specifically you had three cases that you were interested in.

Mr. PAGE. One of the vessels was named *WEN—W-E-N—Nine*.

Mr. HUGHES. Yes.

Ms. WOOLEY. The seizure occurred October 1986.

Mr. HUGHES. Can you pull the microphone over in front of you, please?

Ms. Wooley, is it?

Ms. WOOLEY. Wooley, yes.

Mr. HUGHES. OK, thank you.

Ms. WOOLEY. I'll just read you a chronology of the case, the different transactions that Fines and Penalties have taken up to the present status of the case, if that's what you want to do.

Mr. HUGHES. Yes. Give me some idea of what the holdup is.

Ms. WOOLEY. OK. October 1986, is the date the seizure occurred. The value of the vessel at that time was \$23,000.

The basis for the seizure was under 19 U.S.C. 17034, Illegal Compartment.

There were no drugs found in it.

A petition was received from the owner in December 1986.

In January 1987, FPF, by telephone contact with the attorney, gave clarification to the attorney of the dimensions of the secret compartment, and what he could do as far as submitting documentation as to what constituted an illegal compartment.

He advised that he was going to file a supplemental petition on that issue.

In February 1987, FPF requested the owner to provide that specific documentation to show proof of ownership.

In February 1987, again an extension was requested by the petitioner to better address the secret compartment issue.

So in a period of about 2 months it was back and forth to the attorney with clarification of the section of law and documentation to show proof of ownership.

Also in February 1987, we received a petition outlining the circumstances regarding the secret compartment and ownership documentation.

In March 1987, the District Director made the decision to deny the petition, and an administrative forfeiture action was initiated.

That means the intent—notice of intent to forfeit went to the newspaper for publication in the newspaper.

In April 1987, the petitioner filed to stop the forfeiture action, and the case was referred to our office of regional counsel for judicial preparation.

Followup action was made with the regional counsel's office on the status in August 1987; followup status by FPF to regional counsel again October 1987; followup action January and February.

In April we received a request from the petitioner on the total seizure expenses in order to pay a negotiated amount.

They were working on a settlement during this time with regional counsel to come up with x amount of dollars in order to release the vessel.

The petitioner at that point notified us that he was not able to pay the full seizure expenses and requested a waiver of the entire seizure amount.

The District Director gave reconsideration to the case, with advisement from regional counsel, and a settlement arrangement was reached.

In June 1988, FPF received a letter from the petitioner regarding execution of the constructive seizure agreement and a request for an extension of time because the owner of the vessel was out of the United States.

This was a delay caused by the petitioner.

Again in—

Mr. HUGHES. Is the petitioner an American citizen?

Ms. WOOLEY. Yes. In this particular case this is a lobster vessel, and evidently this person was on a lobster trip on another boat.

Mr. HUGHES. OK.

Ms. WOOLEY. In July 1988, the District Director issued a release order on the vessel.

In August 1988, the petitioner again was given an extension of time because he needed to view the vessel.

The compartments on the vessel evidently were such that it was going to take some time and a considerable amount of money to remove the illegal compartment.

In late August 1988, Fines and Penalties granted their viewing and made arrangements with them to go on board and take a look at the boat to determine how much time and how much money would be involved in removing the illegal compartment.

In October 1988, FPF received a letter of explanation of the delay on the release from the petitioner, and there was a problem with the inability to secure an endorsement on the check by the

owner, the lobster fisherman, who was out of the country. Customs had refunded the court costs, made payable to the fisherman.

And that was part of the agreement, that we would allow that amount to be referred back to him—to be refunded back to him.

In November 1988, FPF granted an extension to the petitioner for 30 days to get the release accomplished, because they had finally reached a point where he was able to determine how long it would take and the moneys involved and he was proceeding with the contract to get it done.

In November 1988, FPF was requested to reschedule the viewing of the vessel again.

And the only explanation I have for that is that he had to get another contractor to do the work; maybe the first one was not able to do everything that needed to be done to specification.

Mr. HUGHES. Meanwhile we're still paying the storage costs—

Ms. WOOLEY. At this point—

Mr. HUGHES [continuing]. And the maintenance?

Ms. WOOLEY. At this point the seizure expenses were continuing.

Mr. HUGHES. To run?

Ms. WOOLEY. To run.

In December 1988, a followup to petitioner again on the release.

And the explanation was that the attorney had been out of town but that they were continuing to work on trying to get the vessel released.

By January, the District Director had written a letter stating that—you know, the whole outline of what happened on the vessel and that at this point we were unable to continue—at this point, that he had not complied with the initial decision and at this point we were going to have to continue with our forfeiture action on the vessel.

And this occurred in February 1989.

March 1989, FPF received authorization from our Seized Property Division in headquarters to schedule this vessel for the next auction, which is June 1989.

Mr. HUGHES. All right. Now, how much money do we have in the vessel now in costs, in maintenance and storage costs?

Ms. WOOLEY. The holding cost through February 1989, was \$16,000.

Mr. HUGHES. \$16,000.

And what is the vessel appraised at?

Ms. WOOLEY. \$23,000.

Mr. HUGHES. \$23,000.

And what was the compromise that we struck back in, I guess it was, 1988 with the defendant's counsel, the petitioner's counsel?

Ms. WOOLEY. That the individual would pay 50 percent of the seizure expenses, bring the vessel into compliance with the law.

This was a promise agreement upon the release of the vessel.

Mr. HUGHES. So at that point the agreement was that he would pay 50 percent of the costs—

Ms. WOOLEY. Correct.

Mr. HUGHES [continuing]. Of seizure.

Then it was probably in the neighborhood of \$11,000 to \$12,000 at that point, So he'd be picking up about half of that \$12,000 worth

of expenses, and we would be out of pocket about \$6,000 at that point.

Ms. WOOLEY. Correct.

Mr. HUGHES. And the long and the short of it is that it's been dragged out all this time and now you have to go the sale route because they defaulted.

Ms. WOOLEY. Correct.

Mr. HUGHES. OK. When was the last time the vessel was appraised?

Ms. WOOLEY. The appraisal date was at the original time of seizure, and that was in the latter part of 1986.

Mr. HUGHES. Yes. So it hasn't been appraised since 1986.

Is it worth more or less today?

Ms. WOOLEY. Obviously it would probably be less than that today.

Mr. HUGHES. I see.

Rather than take a lot of time with—I guess you have at least a dozen other cases that we talked about, two in that one yard.

The *Antares*, where was that; that was in that first yard we saw?

Mr. RILEY. I believe it was, yes, sir.

Mr. HUGHES. I'm going to leave the record open.

I wonder if you'll submit the case histories on each of those vessels that we asked for additional information on.

Would you do that for the record?

Mr. RILEY. We will.

Mr. HUGHES. OK. Thank you.

[The information follows:]

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE



DATE: **JUN 02 1989**


FILE: FNF-4-DD-F: CBH

TO : Jerry Worley, Branch Chief
Fines, Penalties & Forfeitures
Room 1319
Washington, D. C.

FROM : District Director
Miami, Florida

SUBJECT : Chronologies for Hughes Hearing

Attached we are forwarding fourteen (14) case chronologies per your request. Please advise if you need further information.


Thomas Mattina

Attachments

87-5201-00004

10/06/86	Date of Seizure 38' Chris Craft (\$23,000 value) M/V WEN IX
11/05/86	Notice of Seizure 19 USC 1703
12/04/86	Received petition
01/12/87	FP&F telephone contact with attorney and clarification of 19 USC 1703 - he will file supplement to petition
02/11/87	FP&F requested owner to provide documentation to show proof of ownership
02/19/87	Extension requested by petitioner to better address the "secret compartments"
02/26/87	FP&F received petition outlining circumstances on secret compartment
03/11/87	Petition denied and administrative forfeiture action initiated
04/25/87	Bond (04/13/87) filed to stop forfeiture and case referred to Regional Counsel for preparation for judicial process
08/03/87	Follow-up to Regional Counsel on status (working on settlement with AUSA)
10/31/87	Follow-up to Regional Counsel on status
01/13/88	Follow-up to Regional Counsel on status
02/24/88	Follow-up to Regional Counsel on status
04/08/88	Received request from petitioner on the total seizure expenses in order to pay
04/20/88	Petitioner cannot pay seizure expenses - requested waiver
05/13/88	District Director gave re-consideration on case and decided to grant relief (NFC to refund \$2,300 cost bond to petitioner) Decision - \$6,000 seizure expenses, HHA, Constructive Seizure Agreement to remove secret compartment

87-5201-00004 (continued)

06/03/88 FP&F received letter from petitioner regarding execution of Constructive Seizure Agreement and owner out of U.S.

06/16/88 FP&F received copy of offer from petitioner to pay \$6,000, 1/2 of seizure expenses, HHA and Constructive Seizure Agreement

06/17/88 FP&F received memo from Regional Counsel regarding consultation with AUSA

07/22/88 Release of vessel authorized

08/12/88 Petitioner requested to view vessel

08/29/88 FP&F granted viewing

10/13/88 FP&F received letter of explanation of delay on release on behalf of petitioner - (unable to secure endorsement on check by owner on the check for bond refund)

11/02/88 FP&F granted extension to petitioner for 30 days to get release accomplished

11/28/88 FP&F was requested to reschedule viewing of vessel

12/01/88 Viewing granted

12/13/88 Follow-up to petitioner on release (attorney had been out of town)

01/04/89 Forfeiture action initiated under deteriorated value provision

01/13/89 Petitioner requested DD to allow release of vessel

01/20/89 FP&F advised petitioner that request would be granted for release IF completed by 01/31/89

01/31/89 Petitioner withdrew his claim to vessel

02/28/89 FP&F reported vessel to SPD for disposition

03/13/89 FP&F received authorization from Headquarters to sell the vessel at auction Scheduled for auction June 21, 1989

87-5201-00101

01/08/87	Date of Seizure
01/29/87	Letter from Attorney Charles Brown Mirman, 379-6411 representing RSJT Investment, Inc. Owner of Mitsubishi MU2 A/C
02/11/87	Notice of Seizure 19 USC 1703 - Aircraft outfitted for smuggling 1976 Mitsubishi MU 235 A/C
02/18/87	Election of Proceedings form signed requesting Judicial Forfeiture
04/29/87	ROI received
05/02/87	Referred to Regional Counsel for Judicial Forfeiture (FY-87-0884)
06/09/87	ROI sent to RC
07/17/87	Letter to Attorney stating case had been referred to RC
01/26/88	RC referred to U. S. Attorney for judicial forfeiture
02/22/88	Case filed in U.S. District Court by U.S. Attorney Court Case #88-0306-Civ-Ryskamp
12/03/88	Follow-up with AUSA - Discovery still being conducted. Trial date not set
02/22/89	Follow up with AUSA - Ready for trial. No date set.
05/16/89	Trial scheduled for 9/23/89, however further investigation is required as additional witness has come forward. AUSA is amending complaint.

86-5201-00177

03/07/86	Date of Seizure
03/10/86	Received Appraisal on Vessel
04/01/86	Notice of Seizure 19 USC 1703 - Vessel outfitted for smuggling 1978 Monolo Sportfisherman-M/V Antares
04/01/86	Penalty Notice
05/02/86	Petition received-Sunrise & Sunset Tours of FL., Inc. (Humberto J. Aguilar, Esq. 324-5955)
05/02/88	Acknowledgment to attorney of receipt of petition
10/17/86	Letter regarding change of attorney to Robert I. Targ, 861-1984
10/23/86	Letter from Attorney requesting that their Investigator be permitted to view vessel and requesting additional time to file petition
11/04/86	Letter from FP&F extending petitioning date to 12/1/86.
11/11/88	Petition received in FP&F
12/08/88	Affidavits of John Catala-President of Sunrise & Sunset Tours of FL., Inc. and Roberto Damas, President of Miami River Yacht Repair.
12/19/86	ROI requested
01/15/87	DEA Lab Report - Electrolux Vacuum and Dustbuster were found to contain traces of cocaine.
01/21/87	ROI received
02/23/87	Received from Attorney - Receipts from Miami River Yacht Repair for work done and Sales receipt for sale of the M/V Antares from Indalencio Iglesias to Sunrise & Sunset Tours of FL., Inc.
03/05/87	Petition forwarded to Chief, Miscellaneous Penalties Branch, Washington, DC for decision.

07/24/87	Memo from Headquarters denying petition and giving counsel for petitioner 30 days to file supplemental petition.
08/03/87	Letter to Attorney denying petition
08/12/87	Letter from Attorney requesting Judicial
09/22/87	Referred to Regional Counsel for Judicial proceedings
12/18/87	RC referred to US Attorney for Judicial
02/24/88	Warrant of Arrest in Rem and Complaint filed in U. S. District Court
10/06/88	Northrop - Fair Market Value Analysis
01/24/89	Court Order - Property forfeited - Case file closed.
02/17/89	CF 42 sent to Headquarters
05/17/89	Per telephone call with Bill Calnan, Headquarters they cannot locate 42. We will re-submit

87-5201-00193

03/24/87	Date of Seizure
03/27/87	129 Receipt for Seized Property received
04/06/87	Appraisal received
04/08/87	Letter from Attorney Robert M. Palmer, 371-6561 stating they represent Excalibur Leasing, Inc.
04/17/87	Letter from Excalibur Leasing, Inc. stating Robert M. Palmer, Esq. is representing them
05/18/87	<p>Notice of Seizure</p> <p>19 USC 1590 - A/C was not property registered falsely marked. Prima facie evidence indicating unlawful use of aircraft.</p> <p>21 USC 881 - Proceeds of narcotics transactions</p> <p>1972 Cessna Citation</p>
05/18/87	Letter to Attorney stating referred for investigation
05/21/87	Referred to OE for investigation
06/16/87	Letter from Robert I. Targ, Esq., 661-1984 as representative for Mustang, Ltd., Owner of A/C requesting extension to file petition
06/16/87	Granted extension to file petition until 7/20/87
07/20/87	Letter of request from Robert Targ, Esq. to refer to U. S. Attorney for judicial
08/11/87	Letter from SAC to Legal Counsel, Broward Co. Sheriff's Office regarding their request for transfer of property for their use
08/18/87	Letter to Robert Targ requesting clarification as to Attorney of record
09/25/87	Letter of withdrawal from Robert M. Palmer, Esq.
09/29/87	<p>Memo from OE stating ongoing investigation.</p> <p>Expect it to take 3 months</p>

11/17/87 OE report received in FP&F

12/15/87 Letter from Targ reiterating that case should be referred to U.S. Attorney's Office for judicial

01/11/88 Letter to Attorney advising this has been referred to RC for judicial proceedings

01/11/88 Case file referred to RC for judicial forfeiture proceedings

2/17/89 Copy of Plea Agreement and letter from RC. A/C is forfeited to government. Also Mr. Targ no longer represents Mustang, Ltd. or Mr. Dominquez

04/11/89 Letter to AUSA Donald Chasse requesting certified copy of plea agreement and order approving same

05/17/89 AUSA Jean Mullenhoff will get us certified copies of Plea Agreement and Court Order

87-5201-00343

07/06/87 Date of Seizure
M/V PAPA BEAR
(\$200,000 value)

07/28/87 Notice of Seizure
19 USC 1703

09/12/87 Received petition

04/08/88 Referred for investigation

05/17/88 Received request for information on the vessel by petitioner

10/15/88 FP&F received Report of Investigation

11/10/88 Case forwarded to Headquarters for decision

02/24/89 Follow-up by FP&F to Headquarters on status

05/03/89 Received decision from Headquarters

05/19/89 Decision sent by District Director to remit to owner

1. 88-5201-00273

03/17/88	Date of Seizure
04/08/88	Received appraisal on vessel
04/13/88	Notice of Seizure and Penalty 19 USC 1703, 19 USC 1590, 19 USC 1436, 19 USC 1433 Hidden compartments, failure to report arrival 41' Chris Craft (\$54,300.00)
04/12/88	Letter to Connecticut for owner and lien information
04/15/89	Received letter of representation
05/12/88	Petition received
06/14/88	Case referred to OE for investigation
11/09/88	Report of Investigation received
02/28/89	Decision to grant relief
04/03/89	Release/Disposition Order issued
05/18/89	Follow up with Northrop on status of release vessel still at storage facility
05/19/89	Letter to Attorney advising release must be accomplished within 10 days or vessel will be forfeited

2. 88-5201-00333

04/23/88	Date of Seizure
04/23/88	Letter of representation for vessel
05/06/88	Received appraisal on vessel
05/12/88	Contact with Tallahassee
05/23/88	Verbal contact with attorney Pallas representing Sol and Alexander Garcia
05/23/88	Notice of Seizure and Intent to Forfeit 19 USC 1595a(a), 49 USC 781 8 grams cocaine, 30 grams marijuana M/V America (\$389,000.00)
05/31/88	Advertising of Forfeiture
06/20/88	\$5,000.00 Cost Bond submitted
07/08/88	Case referred to Regional Counsel for initiation of judicial forfeiture proceedings
08/22/88	FP&F received memo from Regional Counsel Case assigned FY #88-1353
09/20/88	Referral memo and package to US Attorney
10/04/88	Warrant and Complaint filed
10/20/88	Letter to Attorneys Pallas and Marquez from AUSA asking for verified claim to be filed
11/18/88	Petition forwarded to AUSA from Attorney Pallas
11/29/88	Request to Seizure Conveyance Specialist for arrest of vessel
12/09/88	Warrant of Arrest and Complaint served on vessel
04/18/89	Follow up with AUSA on status

CHRONOLOGY88-5201-00557

09/06/88	Date of Seizure
09/21/88	Received appraisal on vessel, \$235,000.00
09/22/88	Notice of Seizure 19USC1436, 19USC1433/1454 Failure to comply with reporting requirements, 1983 56'lien HWA motor yacht & equipment, "DIRTY DANCING"
10/21/88	Petitions received
12/02/88	Case referred to OE for investigation
02/27/89	Amendment to petition received
02/27/89	Amendment to petition received
03/01/89	Report of Investigation received
Pending	Case referred to Headquarters for decision.

3. 88-5201-00564

09/08/88	Date of Seizure
09/20/88	Received appraisal on vessel
12/07/88	Contact with Tallahassee for owner and lien information
12/07/88	FP&F contacted Regional Counsel for advice on laws to use in Notice of Seizure
12/09/88	Advised OE additional probable cause needed to support seizure/forfeiture
12/16/88	FP&F and OE agreed that certified letter would be sent to owner of vessel
12/20/88	Notice of Seizure/Retention
03/28/89	Advertised/Forfeiture vessel and equipment
04/07/89	Received petitions from two individuals with claim to vessel.
04/18/89	Vessel and equipment forfeited
05/18/89	Case referred to OE for investigation

CHRONOLOGY

88-5203-00057

01/10/88	Date of Seizure
02/10/88	Received appraisal on Motor Vessel, \$32,000.00.
03/07/88	Notice of Seizure 19 USC 1595a, 49 USC 781 Facilitated the importation of 27.7 grms. of marijuana 1970 48' Greenwich Yacht & Equipment, "CHALLENGE"
04/05/88	Petition received
04/18/88	Amended Notice of Seizure
09/28/88	Case referred to OE for investigation.
11/30/88	Report of Investigation received
Pending	Decision letter; remit to violator

ENF-4-DD-DC
88-5203-00220

5-19-89

M/V "TSJE TSJA"

07-14-88 Seized vessel - Ft. Lauderdale, Fl

07-28-88 N/S for narcotics trafficking, 21 USC 881.
N/S mailed to violator, Krebs & owner
Polemis Holdings. No liens. ROI requested.
Value \$ 185,000.00

09-15-88 Awaiting ROI from SAC

09-16-88 Referred to Reg. Counsel for judicial forfeit in
REM. No petition rec'd.

10-05-88 Reg. Counsel acknowledge referral & assign case
number FY-88-1763MR

10-26-88 Reg Counsel request additional info i.e.
affidavit, warrant, etc. to substantiate
21 USC 881

11-08-88 Copy of plea agreement (no signature) rec'd from
SA Yuille Young - Krebs will plead guilty and
voluntarily forfeit on 12-8-889

12-02-88 Rec'd copy of follow-up status memo from SAC, No.
Fla to Dept. of Justice, Atty Lotham George, Ft.
Lauderdale, Fla.

12-17-88 Status of judicial referral to Reg Counsel

01-04-89 Corresp from P. Weakley requesting payment of
storage charges (1-3-89). Referred to R/C and
notified Weakley

01-11-89 Rec'd transmittal from Reg Counsel - need more
info from agent/DEA to form basis of complaint

01-23-89 Add'l info (warrant, affidavit, ROI, IRS memo,
etc.) rec'd from agent Young

01-25-89 Add'l info submitted to RC (Rick Friedland) vessel
seized for proceeds - no contraband onboard.
Agent will furnish copy of court order (crim case)
when signed

02-08-89 Rec'd copy of Order of Forfeiture (criminal case
FY86-873-CR-Davis) for U.S. Customs to publish and
dispose of

02-10-89 Order of Forfeiture referred to R/C for advise on
how to handle notice

02-13-89 N/S faxed to R/C (Rick Friedland) for approval

02-13-89 N/S advertising order prepared for forfeiture. No
petition rec'd

04-12-89 Notified RC (Rick Friedland) to close judicial
forf. referral. Vessel forfeited criminally

ENF-4-DD-F:DC
88-5205-00014

5-19-89

1981 40' Performer Vessel & Equipment

02-14-88 Vessel Seized - Ft. Pierce, Florida

03-30-88 Received letter of Representation and copy of vessel registration from Ada Rojas

04-19-88 Received appraisal on aircraft - \$ 42,000.00

05-05-88 NS to violator - Revell and registered owner, R&R Enterprise (No liens). Copy of Notice of Seizure to Ada Rojas. 19 USC 1590 - Prima Facie Evidence. False registration number, no valid proof of ownership

06-03-88 Rec'd petition on behalf of owner, R&R Enterprises

07-15-88 Rec'd cover memo, ROI & memo of interview from CI

08-12-88 Petition referred to SAC, Miami

09-09-88 Petition referred to SAC, Miami/RAC, FL 09-14-88

10-15-88 Rec'd petition investigation report from SAC-S. Fl

12-21-88 Decision rendered to remit - Condition: 10% penalty, seizure expenses, fix decal and Hold Harmless

01-20-89 Rec'd checks and HHA from attorney for release

01-23-89 Disposition order prepared

03-22-89 Rec'd correspondence from Northrop reference incident to (two outdrives stolen)

04-06-89 Follow-up with Northrop - Vessel still at storage facility

04-11-89 Correspondence mailed to atty to pick up vessel (within 10 days from date of letter)

04-19-89 Atty given to 4-26-89 to effect release

05-08-89 Rec'd original dispo/release order. Release accomplished 04-26-89. No items remaining

05-15-89 Follow-up memo to seizure custodian for items remain with copy of release. Suspense date 6-30-89

05/16/89 In administrative forfeiture. Advertised on 5/16/89.

CHRONOLOGY89-5201-00213

02/07/89	Date of Seizure
02/22/89	Notice of Seizure 19USC1703 False Hull 1974 46' Bertram Sportfisherman & equipment - "TIKI-MAR"
03/02/89	Received appraisal, \$105,000.00
03/18/89	Received Election of Proceedings, Form JF, requesting judicial forfeiture proceedings
05/17/89	Report of Investigation received
05/19/89	Case file referred to Regional Counsel for institution of judicial forfeiture proceedings

Mr. HUGHES. The gentleman from Mississippi.

Mr. SMITH of Mississippi. Mr. Chairman, in the interest of time and our schedule, I'd just like to be allowed to submit written questions to the panel at a later time.

Thank you.

Mr. HUGHES. Mr. Riley, some of the assets that we questioned were awaiting further authorization from headquarters.

What does that mean?

Mr. RILEY. In some cases it requires a decision by the Seized Property Division on whether to proceed with sale and how to do that. In some case there may be headquarters legal review.

Mr. HUGHES. I noticed that in some of the instances that the delay was 3 and 4 months in headquarters getting back to the field office.

Is there some reason for the inordinate delay?

That seems to be an inordinate delay in getting back to the field office with either authorization to proceed with sale or get back and say it's not ready for sale for some reason.

Who is it in headquarters that reviews these individual seizures to determine whether or not to move ahead with sale?

Mr. RILEY. That is the Seized Property Division, which is under the Office of Logistics Management.

Mr. HUGHES. And who heads that up?

Mr. RILEY. Ms. Goerlinger.

Mr. HUGHES. OK.

Ms. GOERLINGER. The Seized Property Division is a group of approximately six people that oversee the maintenance of seized property through the contractor.

Mr. HUGHES. Well, is there some reason why we would have such delays in getting back to the field office?

Ms. GOERLINGER. I think those delays are not typical, sir.

Mr. HUGHES. They are not?

Ms. GOERLINGER. I do not think they are. I think, as Mr. Riley indicated, there may be a number of reasons why somebody's waiting for something in headquarters. This is one of them, and it's quite conceivable that one or two cases can go this long. But I'm not familiar with a whole rash of problems in this area.

Mr. HUGHES. Do you have a master list of assets?

Mr. RILEY. Yes, we do.

Ms. GOERLINGER. Yes.

Mr. HUGHES. And how often do you update that?

Mr. RILEY. Monthly.

Mr. HUGHES. On a monthly basis.

Mr. RILEY. And you can have it in several different versions, and one of them is an aged account. And we are now working very diligently with the Fines, Penalties, and Forfeitures people in headquarters and they in turn with the district and with our contractor and the seized property staff.

Mr. HUGHES. What kind of cooperation are you receiving from the U.S. attorney's office?

Mr. RILEY. If I could, I'd like to refer that to Mr. Thomas, who is regional counsel.

Mr. THOMAS. The U.S. attorney's office, Mr. Chairman, has been very cooperative. And I think this latest effort in which they're ob-

viously dedicating specific resources to the asset forfeiture business is going to improve upon that.

But generally speaking, they are very cooperative and very attentive to what they do.

Mr. HUGHES. Thank you.

The gentleman from Florida, Mr. Smith.

Mr. SMITH of Florida. Thank you, Mr. Chairman.

There is a list of cases that we received.

We saw some boats yesterday that had been in the yard for quite some time. And we have a list of things we've asked them to provide us answers for. So I won't get into those.

But I'm curious about the Northrop investigation that's being done in Texas.

Ms. GOERLINGER. Yes, sir.

Mr. SMITH of Florida. Did anybody ask about that, Mr. Chairman?

Mr. HUGHES. No.

Mr. SMITH of Florida. Can you tell me the status of that investigation?

Ms. GOERLINGER. Right now the U.S. attorney for the Eastern District of Texas is conducting a grand jury investigation. To the best of my knowledge that investigation is of the Northrop Worldwide Aircraft and its contract with Customs.

And I don't know any further the status of that. I'm not aware of any indictment of decisions.

Mr. HUGHES. Will the gentleman yield to me?

I think we might have to await the outcome of an ongoing criminal investigation before we take any testimony with reference to that investigation.

Mr. SMITH of Florida. All right, Mr. Chairman.

Some of the people that testified here previously talked about the fact that they had a problem with identifying people in Washington who could track their applications for sharing.

Do you have such a person in Washington who is designated to work with the State and local officials? Have you made any cases with them, so that they can directly talk to somebody who's in charge of their application for sharing of proceeds?

Mr. RILEY. We have identified people specifically in each office that's involved.

The Office of Enforcement has overall responsibility for tracking that, and I believe that they have made some very good progress in being able to be very responsive to the calls from the applicants.

That was an earlier criticism, and that's when the function and person was specifically identified.

Mr. SMITH of Florida. So there are cases where Customs work with local law enforcement.

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. And the local law enforcement—in this case let's assume it's the Hollywood police.

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. And they make an application for sharing. Is that then forwarded all the way up to Customs in Washington?

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. Who could they call at Customs in Washington; do they get a telephone number and a name?

Mr. RILEY. We have kind of like a publicity brochure that goes out to all State and local law enforcement offices, and it has the names in there.

I can get you the brochure.

Mr. SMITH of Florida. That's OK. I don't need the name.

So everybody that's in that process, the person at the police department, for instance, that made the application, he's chargeable with getting some results with it, he knows where to call in Washington because the local office, I would assume, loses a lot of interest in it after it's bounced to Washington.

Mr. RILEY. In fact, Mr. Smith that was done by my office because of the frustrations that I had heard in the Office of Enforcement, and so I had that done. And it is now handled by Enforcement.

Mr. SMITH of Florida. I wasn't here, and I apologize. I stepped out for a few minutes to talk to Mr. Lehtinen.

Do you have any problem with the \$100,000 and above administrative forfeiture?

Mr. RILEY. No. We would support that.

Mr. SMITH of Florida. OK. Was it necessary for the GAO to point this out; I mean do you have capability to do that above \$100,000?

Mr. RILEY. No, we do not.

Mr. SMITH of Florida. So it has to be done by law?

Mr. RILEY. It has to be done by law. And—

Mr. SMITH of Florida. Or administrative rule.

Mr. RILEY. No. By law.

Mr. SMITH of Florida. OK.

Mr. RILEY. We had in fact in some previous years proposed that as a legislative initiative.

Mr. SMITH of Florida. Have you suggested to Treasury, of which you are an agency, that some of the funds which are being given to them after sharing and so on, the residual amounts of all these funds that you ultimately are responsible for getting at the street level, should be funneled into some kind of other programs besides just going back into the general treasury?

Has anybody at Customs ever suggested that it would be helpful, do you think it would be helpful, to have some kind of other program uses?

Mr. RILEY. We do use them.

Mr. SMITH of Florida. Well, you have a revolving fund.

But how other than that do you use them?

Mr. RILEY. We use them to equip conveyances that have been seized or conveyances that we're bringing into the inventory. That's how we pay for our seized property contractor. We pay off liens. We use it to cover costs that we waive for—

Mr. SMITH of Florida. But the paying off of the liens is part of a step in the process of getting to the net that results—

Mr. RILEY. That's true. But it allows us—

Mr. SMITH of Florida. You use that out of the trust fund.

Do you have a revolving trust fund?

Mr. RILEY. That's true. Yes, we do.

Mr. SMITH of Florida. And the money that you get goes into the revolving trust fund.

Mr. RILEY. That's true.

Mr. SMITH of Florida. And that pays all the liens and it pays the cost of retrofitting and it pays maintenance charges and pays everything.

Mr. RILEY. That's true.

Mr. SMITH of Florida. That's not what I'm saying.

I'm saying: Have you ever asked Treasury to designate a part of the net proceeds, which are all going to the Treasury, net proceeds, every year, for some other usages?

Mr. RILEY. Not that I'm aware of, OK.

Mr. SMITH of Florida. You've put real estate properties now with the Marshals Service on a pilot program; correct?

Mr. RILEY. That agreement is not yet finalized.

Mr. SMITH of Florida. Oh, it's not finalized.

Mr. RILEY. No. It is being reviewed by our counsel in headquarters because of the seized under 881 with the Justice Department.

Mr. SMITH of Florida. What was the impetus for wanting to do this; did it come from your agency or from someone else?

Mr. RILEY. We were required under the drug bill to do that.

Mr. SMITH of Florida. To put all real property?

Mr. RILEY. No. To come up with—

Mr. SMITH of Florida. A pilot program?

Mr. RILEY [continuing]. A pilot program—

Mr. SMITH of Florida. OK.

Mr. RILEY [continuing]. Because we only have 41 properties that—

Mr. SMITH of Florida. Yeah. You're not in the business generally of seizing real property.

Mr. RILEY. No. That's correct.

Mr. SMITH of Florida. But it hasn't been signed yet.

Mr. RILEY. No. It has not.

Mr. SMITH of Florida. Do you have here in this area any problem in running the asset forfeiture program to your knowledge that we need to help you with?

We haven't heard or had any recommendations from you.

Mr. RILEY. I don't believe we have any problems here.

Mr. SMITH of Florida. And you feel that you have all the tools that you need to run it effectively?

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. What have you cut down your average "hold time" to on seized things like boats and planes, which used to be quite some time. What's the average time now?

Mr. RILEY. For vehicle, 7 months; for vessels, 11 months; aircraft, 13 months; and general property, 10 months.

Mr. SMITH of Florida. And that's both judicial and nonjudicial factored together?

Mr. RILEY. That's correct.

Mr. SMITH of Florida. What's the administrative time; do you have it broken down separately if it's nonjudicial, just administrative forfeiture?

Mr. RILEY. No. I think we may be able to construct that for you in the currency, but we may have difficulty in some of the other areas.

Mr. SMITH of Florida. Well, in the currency the GAO showed an approximate 8-month lagtime between seizure and forfeiture into the fund, nonjudicial, administrative.

Now, why should it take 8 months.

Mr. RILEY. Because of the number of different players involved. We're looking at it now to see if there is any way we can make those portions of the process that we control shorter.

Mr. SMITH of Florida. That's what I was asking before about whether or not you have any suggestions to us about what you may need.

There are just too many players in the game inside Customs or at the U.S. attorney and on the judicial—you know, on the judges' side; I mean——

Mr. RILEY. Probably——

Mr. SMITH of Florida [continuing]. What are you talking about?

Mr. RILEY. Probably everybody involved.

Mr. SMITH of Florida. Probably everybody involved.

Once those items were forfeited, the GAO also said there was an enormous lagtime in getting them put into the fund; that is, the time between the transfer from one account to another account.

Why is that?

Mr. RILEY. GAO shared their testimony with us last week. And I was quite shocked to see that lengthy delay in there because it was contrary to what I had been told was going on. And I believe——

Mr. SMITH of Florida. Who told you? You mean inside Customs.

Mr. RILEY. Internally, the people who manage that.

And I believe that we are being skewed by a couple, very few, large-amount cases that have been lingering about, but we're trying to get that cleaned up.

I think on the average our deposit time is very quick. And I'm not sure that we could live with the 7- and 30-day rules that GAO prescribed, but I currently have people looking at that to see if we can in fact make that, you know, a meaningful goal to do that.

Mr. SMITH of Florida. Do you share assets that you seize with other Federal agencies?

Mr. RILEY. Yes, sir, we do.

Mr. SMITH of Florida. On what basis?

Mr. RILEY. On——

Mr. SMITH of Florida. Request; I mean they make a request to you?

Mr. RILEY. They make a request to the commissioner, yes, sir.

Mr. SMITH of Florida. And you go through the nonjudicial forfeiture generally and, instead of selling them, you just turn them over?

Mr. RILEY. That's correct.

Mr. SMITH of Florida. After it's forfeited, instead of selling them, you turn them over.

Mr. RILEY. That is correct.

Mr. SMITH of Florida. Can you give me some examples of what you've turned over and to whom?

Mr. RILEY. Yes, sir. We have turned over vessels to Federal agencies. We provide, for example, vessels that would not return much value to us for targets. If some military organization is looking for

a vessel that would have a certain kind of silhouette, we will search our inventory and find those.

We have provided vehicles on occasion, some special purpose vehicles, like Winnebagos or things like that for the Park Service where they could use them for mobile command centers or things.

Mr. SMITH of Florida. And that's authorized by whom when these vessels or vehicles or conveyances are turned over to other agencies?

Mr. RILEY. The commissioner personally makes that decision.

Mr. SMITH of Florida. He does?

Mr. RILEY. I was at an embassy, which shall go unnamed, and some of the people involved in the Embassy's attachment or detachment for drug fighting, not Embassy personnel but others, attached personnel, were using vehicles that had been seized a long time previously and then probably forfeited.

Is that the kind of thing that you would do if—let's assume, for instance, the Coast Guard called you and asked you if they needed two or three vehicles in some place for people that were attached.

Would you do that; would something like that be within the purview of—

Mr. RILEY. We do provide—

Mr. SMITH of Florida [continuing]. Asset sharing?

Mr. RILEY. We do provide vehicles that are seized that are non-complying for our own personnel. The vehicles that don't comply with DOT or EPA rules here we provide them to our personnel in Embassies.

I know that within the past year we've been asked to provide, I think, 17 vehicles for an embassy in the Caribbean, maybe the same one you're referring to.

Mr. SMITH of Florida. So in other words, you couldn't sell it otherwise?

Mr. RILEY. They were all nonconforming vehicles, and they were generally smaller than anybody was—

Mr. SMITH of Florida. This one happened to be a Lincoln Continental, not in great shape and not new, but a Lincoln Continental.

Mr. RILEY. That's not one that I signed off on. I remember lots of Toyotas.

Mr. SMITH of Florida. I was just curious, not that it wasn't being used properly. I think it was.

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. But I was just surprised when I got this official escort vehicle and it was an old Lincoln Continental that looked like it had been through the reeds and the brushes.

And that's checked off on and ultimately approved by the commissioner.

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. And under what authority do you turn all those—in other words, if they're nonconforming vehicles, I can understand why you can't sell them.

But if they were otherwise conforming—and that has happened, I assume, that they were otherwise conforming—under what authority do you turn them over and not sell them, the commissioner's authority?

Mr. RILEY. Yes, sir.

Mr. SMITH of Florida. Thank you.

Thank you, Mr. Chairman.

Mr. HUGHES. I thank you, gentlemen.

I don't have any further questions.

What I would like you to do, however, if you could within the next 2 weeks, is provide for us a history of each of the vessels and airplanes that we questioned. I'd like to have their history—when they were seized, the appraised value, judicial or administrative forfeiture, inquiries either to headquarters or to the U.S. attorney on the status. I want the whole history.

Mr. SMITH of Florida. Mr. Chairman, I'm sorry. I do have one question.

Mr. HUGHES. The gentleman from Florida.

Mr. SMITH of Florida. I apologize.

Mr. Mattina was kind enough to show us a lot of vessels on Saturday, and we saw some vessels that were really ultimately, I would say and most people would generally say, pretty crummy and some of them were in an advanced state of dry rot, et cetera..

Is the Coast Guard apprised of every one of these vessels and does the Coast Guard have to conduct a safety inspection of these vessels before they are sold, or do you wait until after they are sold so that the owner then is responsible for getting whatever registration they get, of having a safety inspection done prior to that time?

I mean some of these vessels I wouldn't even have sold; I would have just, you know, taken out—and you could have sawed them in half and taken care of them.

Mr. HUGHES. Is the gentleman talking about safety inspection before or after they are used for target practice?

Mr. THOMAS. I think that's the answer, Congressman.

Mr. SMITH of Florida. So you don't bother asking or notifying the Coast Guard when items that have been seized by you are ultimately sold or otherwise disposed of; you notify the Coast Guard when you know that these vessels are in pretty sad shape.

I mean they may have been sitting in your control for 1 year or 2 on the river, in dry dock.

We saw one I remember in particular, the *St. Anne Charitable*. That's a menace. That boat shouldn't be given to anybody.

I understand it is. Somebody's going to buy it, I think the owner.

Mr. HUGHES. That's going to be remitted.

Mr. SMITH of Florida. No. I don't think it's going to be remitted.

Well, whatever it is, remitted or not, the thing looked like it was one state from terminal.

Mr. RILEY. Mr. Chairman, we discussed that very question this very morning over breakfast with Mr. Mattina.

Mr. SMITH of Florida. My God, you had nothing else to discuss but that?

Mr. RILEY. But it had generated some considerable interest. So perhaps we can develop some concepts or plans and get them back to you.

Mr. SMITH of Florida. There are some of those vessels that ought to be not even—even if they are remittable, the Coast Guard ought to be able to come in first or ought to be required, if somebody has any reasonable grounds to believe that thing is not safe.

And looking at some of them, at least you have reasonable grounds to believe they're not safe. When there are huge, gaping dry-rot holes in the hull, that might give you some small indication that the Coast Guard ought to look at it.

Thank you.

Thank you, Mr. Chairman.

Mr. HUGHES. What the gentleman is saying is that perhaps you should have the target practice before we bring them in.

I thank you, Mr. Riley, for your testimony and again for your assistance. Your staff has been very helpful to us, and we appreciate that.

Thank you very much.

[The prepared statement of Mr. Riley follows:]

PREPARED STATEMENT OF WILLIAM F. RILEY, COMPTROLLER, U.S. CUSTOMS SERVICE

Good Morning,

Mr. Chairman, and distinguished members of the Subcommittee on Crime, we are pleased to be here today to discuss the Seized Property Program.

First let me introduce myself. I am William Riley, Comptroller of the U.S. Customs Service. I have held this position since August, 1987. With me today are: George Heavey, Regional Commissioner of the Southeast Region; Tom Mattina, District Director of the Miami District; and Lorey Goerlinger, Director of the Office of Logistics Management.

Mr. Chairman, the primary functions of the U.S. Customs Service are the collection of revenue as levied by law on imported goods, and prohibiting entry of illegal goods and contraband. As a result, Customs is authorized to seize property when there is reasonable cause to believe laws enforced by Customs have been violated.

Once the seizure has occurred, the property may be returned to the owner (remitted) upon payment of expenses and/or penalties or successful petitioning; or, upon forfeiture, it may be sold, retained by the Federal Government for official use, shared with participating state and local law enforcement agencies, destroyed, or otherwise disposed of.

When property is seized by Customs, laws require that certain procedures be followed to ensure protection of the rights of owners and violators, including notifying owners/violators; allowing time to petition for remission; legal advertising of intent to forfeit; or court processing in those cases subject to judicial forfeiture. These procedures can contribute to a significant lapse of time between seizure and forfeiture, resulting in seized property remaining in the custody of the U.S. Customs Service from a few hours to 18 months or more depending on circumstances.

Since 1985, the Customs Service has contracted with private industry for all services, personnel, facilities, and materials necessary to provide for the "Custody, Management, and Disposition of Seized/Forfeited Property".

Mr. Chairman, the volume of work nationwide in the management of seized property is growing at an enormous rate. The following seized property statistics are provided to show you the extent of this growth. These seizures took place in over 200 ports of entry into the United States:

Category	Number of Seizures		Value \$(000)	
	FY 87	FY 88	FY 87	FY 88
Aircraft	144	123	\$13.5	\$12.6
Vehicles	3,458	6,448	16.4	32.7
Vessels	355	353	17.9	20.2
General Property	4,455	6,581	148.1	161.7
Real Property	4	22	1.8	2.3
Mail Room	528	1,433	.3	.7
Totals:	8,945	14,961	\$198.0	\$230.2

This data shows an increase in workload of 67% for the number of seizures and 16% increase in asset value over a one year period. Moreover, the diversity of the commodities is also increasing. For example, in March of this year Customs arrested a violator in the Hills near Sells, Arizona, and his conveyance, a horse, was seized for transporting narcotics. In addition, the contractor accepted custody of 11 horses that were seized along with real property and other items in Naples, Florida. One horse had to be put to sleep due to infection contracted prior to seizure, one recently gave birth to a filly, and two more are expected to foal within one month.

Mr. Chairman, we are happy to report that the Customs Service has made considerable progress since the inception of the Seized Property Program. This was made possible by the opportunities presented by the Comprehensive Crime Control Act of 1984, the Trade and Tariff Act of 1984, and most recently, the Anti-Drug Abuse Act of 1988. These acts have given us the means to apply innovative solutions to long standing problems, and created possibilities for further improvements that will save tax dollars and strengthen Customs and local law enforcement agencies in our war against drug trafficking.

In accordance with the Section 6078 of the Anti-Drug Abuse Act of 1988, the U.S. Marshals Service and the Customs Service are now sharing seized property management information, and have conducted discussions regarding implementation of several initiatives to improve the efficiency and/or cost effectiveness of the post-seizure management of property. These discussions should lead to a formal agreement to conduct a six month pilot test to consolidate the management of different types of property in various locations throughout the United States.

In 1988, our contractor-operated, servicewide Seized Property Program matured as a business oriented effort to:

- o minimize the time and cost of holding and disposing of seized property,

- o maximize return on assets sold, and
- o maximize contractor support of Customs to enable operational personnel to concentrate on their primary mission.

Mr. Chairman based on lessons learned from the Northrop performance, we recognize the urgency to strengthen Customs control over the contract, and reduce contract costs. To accomplish this, we have incorporated a number of major changes into the Request For Proposal for the recompetition of this contract. The most significant changes are:

- o transfer of the Customs owned automated seized property system from contractor operation to Customs operation.
- o all facilities and equipment leased or rented will be transferred to any subsequent contractor or to Customs, should this be the case.
- o the use of contractor operated facilities in high volume locations to eliminate subcontractor overhead and profit.
- o the presence of Customs Contracting Officer Technical Representative (COTR) or Customs Auditor at the contractor's central office or major facilities at all times.
- o the option to modify the contract to have Customs personnel perform these functions in remote areas such as Alaska, Hawaii, and the Virgin Islands, and
- o specifies services to be performed in the following areas which were not addressed in detail in the existing contract:

- Contractor operations
- Real Property
- Sales & Marketing
- Procurement and Subcontracting
- Automated systems
- Accounting and Finance
- Auditing
- Risk Management
- Contracting Staffing
- Transition procedures

The implementation of the above factors will effectively eliminate the identified management information deficiencies previously reported.

Mr. Chairman, the worth of the Seized Property Program and the many modifications made to it since its inception to prevent waste, fraud and abuse have been substantiated by numerous internal, external and General Accounting Office (GAO) program reviews which concluded that:

- o the overall program was successfully implemented
- o the contractor operation is effective and still evolving
- o Customs field offices have directly benefited,
- o accountability and integrity have been strengthened, and
- o quantitative assessments confirm this progress

The Customs Service has made significant progress in the asset sharing program with state and local law enforcement agencies. The purpose of the asset sharing program is to maximize sharing of forfeited property with state and local agencies that participate with Customs in enforcement operations and to ensure that the spirit of the forfeiture provisions of the Comprehensive Crime Control Act and the Tariff Acts are implemented.

Customs efforts to promote cooperative law enforcement efforts have been very successful, and cooperating agencies are encouraged to take advantage of this program. The results are evident by the increase in asset sharing since the guidelines became effective:

FY 1986	\$ 5.0
FY 1987	\$ 6.2
FY 1988	\$11.2
FY 1989	\$ 7.4 (as of 2-28-89)

During the past year we have also tightened the management controls by instituting the following:

- o procedures for promptly depositing all revenue into a Customs deposit-only bank account.
- o new interface with TECS which provided for automated production of mandatory hard copy seized property documents, eliminating the potential for errors and abuse.
- o three separate automated systems to control physical accountability of the property.
- o various dollar value thresholds to limit selected contractor expenses without specific District Director or Contracting Officer approval.
- o established FP&F Program at Customs Headquarters, staffed with qualified personnel and the installation of automated systems to facilitate case processing.

Mr. Chairman, another significant area that the Customs Service is aggressively pursuing in response to recent General Accounting Office findings, is identifying, tracking and handling seized cash.

Based on our discussions with GAO representatives concerning the timeliness of transfers into the Customs Forfeiture Fund, we believe that the standard time frames for transferring forfeited amounts from holding (suspense) accounts to the fund should be substantially reduced. The priority of our actions will be based on the dollar amount involved, and as recommended by GAO, we concur that forfeitures of \$100,000 or more in cash seizures deposited in suspense accounts should be processed to the Customs Forfeiture Fund within 7 days of Customs receipt of the forfeiture notice. However, it should be recognized that forfeiture involving evidentiary cash seizures may logistically require a longer period. We believe that the GAO recommended standard of depositing to the Customs Forfeiture Fund 30 days following forfeiture notice should be applied to (1) evidentiary cash seizures (i.e., those that have not already been deposited to a suspense account), and (2) amounts less than \$100,000.

We also support the GAO recommendations that uncontested cash seizures should be forfeited administratively at any value. The current legal requirements restricting Administrative forfeiture actions to cash seizures amounts of \$100,000 or less, requires

the more time consuming judicial forfeiture process and increases the workload on already over burdened Customs officers, U.S. Attorney's Offices and district courts. We ask for your support in this initiative.

Mr. Chairman, I would like now to address our stepped up drug interdiction activities in the Southern district of Florida. Miami, due to its convenient location to the islands and South America, has been a haven for drug smugglers. Quite logically, the Customs Service has concentrated enforcement efforts in this area. The results have been impressive: approximately one third of the nation's seizures are made in the Miami district. We have provided you with the current inventory of all property on hand in the Southern district of Florida which was seized by the Customs.

The asset sharing program continues to grow in the Southeast Region. Transfers of cash and property to state and local agencies rose remarkably as you can note from the following:

FY 86 \$1.3

FY 87 \$2.0

FY 88 \$3.0

FY 89 \$5.0 (to 2-28-89)

Mr. Chairman, we recognize that certain weaknesses still exist in our seized property program. We have approved the

concept of contracting with an independent private sector public accounting firm to conduct the on-going automated audit of 100% of all contractor transactions. We fully expect that this action will help to insure that the Customs Service seized property management will be brought into conformance with the Comptroller General's principals and standards and all related requirements.

In conclusion, I would like to note that the Customs Service will continue to build on its success and strive to take full advantage of opportunities presented by the Crime Control Act of 1984, Trade and Tariff Act of 1984 and the Anti-Drug Abuse Act of 1988.

I thank you for the opportunity to testify before your Subcommittee today. I also appreciate your continued interest in the U.S. Customs Service. I would be happy to entertain any questions you might have.

Mr. HUGHES. The International Association of Chiefs of Police wants to submit a statement.

Without objection, so received.

[The prepared statement of the International Association of Chiefs of Police follows:]

PREPARED STATEMENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE



The International Association of Chiefs of Police is a professional organization comprised of over 14,500 top law enforcement executives from the United States and 68 nations. IACP members lead and manage several hundred thousand law enforcement officers and civilian employees in international, federal, state and local governments. Members in the United States direct the nation's largest city police departments including New York City, Los Angeles, Chicago, Detroit, Houston and others, as well as suburban and rural departments throughout the country.

Since 1893, the IACP has facilitated the exchange of important information among police administrators and promoted the highest possible standards of performance and conduct within the police profession. This work is carried out by functionally oriented committees consisting of police practitioners with a high degree of expertise that provide contemporary information on trends, issues and experiences in policing for development of cooperative strategies, new and innovative programs and positions for adoption through resolution by the association.

Throughout its existence, the IACP has been devoted to the cause of crime prevention and the fair and impartial enforcement of laws with respect for constitutional and fundamental human rights.

GOOD MORNING MR. HUGHES AND MEMBERS OF THE HOUSE SUBCOMMITTEE ON CRIME. I AM CHARLES D. REYNOLDS, CHIEF OF POLICE IN DOVER, NEW HAMPSHIRE AND PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. ON BEHALF OF OUR MEMBERSHIP, I THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU ON AN ISSUE THAT IS OF PARAMOUNT IMPORTANCE TO STATE AND LOCAL LAW ENFORCEMENT.

THE FEDERAL DRUG FORFEITURE PROGRAM AND THE EQUITABLE SHARING PROGRAM IS ONE OF THE MOST BENEFICIAL PROGRAMS TO COME ALONG IN QUITE SOME TIME. THE ELIMINATION OF REVENUE SHARING FUNDS LEFT LAW ENFORCEMENT IN A "HOLE", IF YOU WILL, BECAUSE LAW ENFORCEMENT RECEIVED THE LION'S SHARE OF REVENUE SHARING. THE LOSS OF THESE FUNDS CAME AT THE WORST POSSIBLE TIME: AS THE DRUG WAR ESCALATED AND THE DEMAND FOR PUBLIC SAFETY SERVICES ACCELERATED AT A FRIGHTENING PACE. THUS, WE FOUND OURSELVES ON THE HORNS OF A DILEMMA: DO MUCH MORE WITH MUCH LESS.

THE ESCALATION OF THE DRUG TRADE ALSO NECESSITATED CHANGES IN THE WAY THE LAW ENFORCEMENT COMMUNITY FUNCTIONS. SUDDENLY WE NEEDED SOPHISTICATED SURVEILLANCE EQUIPMENT,

AIRPLANES, HIGH POWER WEAPONS, LARGE SUMS OF BUY MONEY, ACCESS TO SOPHISTICATED CRIMINAL INTELLIGENCE, LARGE AMOUNTS OF OVERTIME , ETC. FOR A LONG TIME THERE WAS NO RELIEF, AND THEN THE DEPARTMENT OF JUSTICE INSTITUTED EQUITABLE SHARING, AND THE U.S. CUSTOMS DEPARTMENT BEGAN THE SAME PRACTICE. STATE AND LOCAL LAW ENFORCEMENT BECAME A PARTNER IN A WAR WHEREIN WE MUST SHOULDER THE HEAVIEST BURDEN FOR WINNING. MOST IMPORTANTLY, WHILE STATE AND LOCAL LAW ENFORCEMENT BENEFITS GREATLY, THE PROGRAM HITS THE DRUG DEALER WHERE IT HURTS THE MOST: IN THE POCKETBOOK.

I SAY ALL THIS TO EMPHASIZE THAT OUR COMMENTS CONCERNING IMPROVEMENT IN THE MANAGEMENT OF THE PROGRAM ARE CONSTRUCTIVE CRITICISMS - OFFERED BY ONE MEMBER OF THE FAMILY TO THE OTHER. IN IACP, OUR FEDERAL MEMBERS ARE AWARE OF OUR FEELINGS AND WE BELIEVE THAT THE DEPARTMENT OF JUSTICE AND CUSTOMS SERVICE ARE SERIOUSLY TRYING TO RESOLVE ISSUES IN CONTENTION.

I WOULD LIKE TO MAKE SEVERAL POINTS CONCERNING THE PROGRAM: THE STATISTICS IN THE GAO STUDY YOU RELEASED A LITTLE OVER A YEAR AGO WERE QUITE STARTLING TO US. ALTHOUGH OUR MEMBERS

HAVE REPEATEDLY PASSED RESOLUTIONS REQUESTING A MORE EXPEDITIOUS RESOLUTION OF CASES, WE HAD NO IDEA THAT DOJ HAD A BACKLOG OF SOME 3,300 SEIZURE CASES WHICH WERE YET TO BE PROCESSED. WE WERE ALSO UNAWARE THAT THE U.S. CUSTOMS SERVICE HAD SOME \$57 MILLION IN CASH SEIZED FROM DRUG DEALERS THAT IS BEING HELD FOR EVIDENTIARY REASONS. GIVEN THE URGENCY OF THE SITUATION IN OUR COUNTRY, WE FIND THIS SITUATION TO BE UNACCEPTABLE. WE URGE YOU TO CONTINUE MONITORING THIS SITUATION AND IF MORE PERSONNEL ARE NEEDED TO CARRY OUT THIS MANDATE, WE HOPE YOU WILL BE INSTRUMENTAL IN FIGHTING FOR IT.

WE ALSO AGREE WITH YOU THAT ALTHOUGH THE ASSET FORFEITURE FUND IS A GREAT SOURCE OF FUNDS FOR STATE AND LOCAL LAW ENFORCEMENT, IT MUST NOT BE USED AS AN EXCUSE TO CUT THE FEDERAL BUDGET FOR OTHER LAW ENFORCEMENT PROGRAMS. I UNDERSTAND THAT AT THE LAW ENFORCEMENT STEERING COMMITTEE LUNCHEON IN YOUR HONOR, WHERE I WAS REPRESENTED BY IACP MEMBER CHIEF MAURICE TURNER OF THE METROPOLITAN POLICE DEPARTMENT IN WASHINGTON, D.C., YOU WERE VERY CONCERNED WITH THE STATUS OF FEDERAL FUNDING FOR

STATE AND LOCAL LAW ENFORCEMENT AND EMPHASIZED THAT WE NEED TO BE VERY AGGRESSIVE IN HOLDING THE LINE ON THIS. WE COULDN'T AGREE WITH YOU MORE ON THIS ISSUE AND WE THANK YOU FOR YOUR LONG ESTABLISHED CONCERN IN THIS AREA. WE STAND READY TO WORK WITH YOU ON THIS ISSUE.

WE LOOK FORWARD TO THE ISSUANCE OF A BUDGETARY PLAN PUT FORTH BY MR BENNETT, DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY. HE HAS SAID THAT HIS OFFICE EXPECTS TO RECEIVE \$136 MILLION FROM SEIZURES IN FY 1990. TENTATIVELY, HE HAS EARMARKED \$115 MILLION FOR SPECIFIC LAW-ENFORCEMENT ACTIVITIES AND \$21 MILLION FOR JURISDICTIONS DESIGNATED AS "HIGH INTENSITY DRUG TRAFFICKING AREAS" THAT NEED SPECIAL AID. MR BENNETT HAS SAID THAT BECAUSE HE IS UNABLE TO GIVE MONEY DIRECTLY TO LOCAL JURISDICTIONS, HE WILL CHANNEL FUNDS TO FEDERAL AGENCIES THAT CAN THEN BE DIRECTED TO PASS IT ON TO SPECIFIC PROGRAMS. WE CONGRATULATE HIM ON HIS GENERAL PLANS TO WORK WITH STATE AND LOCAL LAW ENFORCEMENT AND WE LOOK FORWARD TO THE SUBMISSION OF HIS CONGRESSIONALLY MANDATED STRATEGY FOR DRUG CONTROL

NATIONWIDE, IN SEPTEMBER.

FEDERAL OFFICIALS ESTIMATE THAT DOJ WILL COLLECT \$474 MILLION WORTH OF SEIZED ASSETS. OUT OF THIS SUM, DOJ WILL RETAIN CONTROL OF \$338 MILLION, FROM WHICH \$128 MILLION WILL BE SPENT ON STATE AND LOCAL PROGRAMS. WHEN WE ADD THIS TO THE \$136 MILLION THAT MR BENNETT CAN DISTRIBUTE FROM HIS OFFICE, WE IN STATE AND LOCAL LAW ENFORCEMENT BEGIN TO FEEL THAT WE ARE INDEED PARTNERS IN THIS WAR THAT TAKES A TERRIBLE TOLL ON LARGE AND SMALL LAW ENFORCEMENT AGENCIES AROUND THE COUNTRY.

AS YOU KNOW, IACP IS QUITE CONCERNED WITH SECTION 6077 OF THE ANTI-DRUG ABUSE ACT OF 1988 - THE ASSET FORFEITURE PROVISION. THIS PROVISION STATES THAT THE ATTORNEY GENERAL SHALL ASSURE THAT ANY PROPERTY TRANSFERRED TO A STATE OR LOCAL LAW ENFORCEMENT AGENCY... "IS NOT SO TRANSFERRED TO CIRCUMVENT ANY REQUIREMENT OF STATE LAW THAT PROHIBITS FORFEITURE OR LIMITS USE OR DISPOSITION OF PROPERTY FORFEITED TO STATE OR LOCAL AGENCIES." OUR CONCERN WITH THIS SECTION STEMS FROM THE INTERPRETATION GIVEN IT BY THE DEPARTMENT OF JUSTICE - THAT IS, THAT THIS

SECTION MANDATES AN END TO ALL ADOPTIVE FORFEITURES. SUCH AN INTERPRETATION WOULD SERIOUSLY JEOPARDIZE THE CONTINUATION OF THIS PROGRAM AND OUR JOINT FEDERAL/STATE/LOCAL LAW ENFORCEMENT EFFORTS AGAINST ORGANIZED CRIME AND HE NARCOTICS TRADE.

SECTION 6077 WAS DESIGNED TO ADDRESS A LEGITIMATE CONGRESSIONAL CONCERN: THE INITIATION OF ADOPTIVE FORFEITURES SOLELY FOR THE PURPOSE OF CIRCUMVENTING STATE LAWS WHICH ESTABLISH PRIORITIES FOR FORFEITURE FUNDS. WE WOULD ARGUE, HOWEVER, THAT THIS NARROW CONCERN CAN BE ADDRESSED WITHOUT ELIMINATING THE ENTIRE ADOPTIVE FORFEITURE PROGRAM. THAT IS TO SAY, IF THERE ARE CASES WHEREIN FORFEITURES ARE INITIATED SOLELY FOR THE PURPOSE OF CIRCUMVENTING STATE LAW, WE SHOULD BE ABLE TO ESTABLISH PROCEDURES AND POLICIES WHICH WOULD PROHIBIT THIS.

ON THE OTHER HAND, ADOPTIVE FORFEITURES ARE REQUESTED FOR PURPOSES HAVING NOTHING TO DO WITH THE CIRCUMVENTION OF STATE LAW. BRAD CATES, DIRECTOR OF THE ASSET FORFEITURE OFFICE FOR THE DEPARTMENT OF JUSTICE, IN A 1986 EDITION OF THE CRIMINAL JUSTICE REPORT, DESCRIBED THE ADOPTIVE FORFEITURE PROGRAM THUSLY:

"ANOTHER METHOD OF PARTICIPATION IS THAT OF ADOPTIVE SEIZURES. THIS USUALLY OCCURS WHEN FEDERAL FORFEITURE LAWS ARE BROADER IN SCOPE THAN EXISTING STATE LAW..." "BROADER IN SCOPE" REFERS TO SEVERAL DIFFERENT SITUATIONS: EVIDENTIARY DIFFERENCES BETWEEN STATE STATUTES AND THE FEDERAL STATUTE; DIFFERENCES IN WHAT TYPES OF PROPERTY CAN BE FORFEITED, I.E. REAL PROPERTY VS. PERSONAL PROPERTY; AVAILABILITY OF TRAINED ASSET FORFEITURE PROSECUTORS TO HANDLE THE CASES (ON A STATE LEVEL); DOCKET BACKLOGS, ETC. GIVEN THESE OTHER RATIONALES , WE DO NOT THINK THE ENTIRE ADOPTIVE FORFEITURE PROGRAM SHOULD BE ELIMINATED BECAUSE OF A PROBLEM IN ONE AREA.

THE UNITED STATES CONGRESS HAS ALWAYS FOSTERED A UNIFIED STATE AND FEDERAL LAW ENFORCEMENT APPROACH TO DRUG TRAFFICKING. THE MEMBERS HAVE BEEN QUITE SUPPORTIVE OF STATE AND LOCAL LAW ENFORCEMENT AND OF THE EQUITABLE SHARING PROGRAM. WE DO NOT BELIEVE THAT SECTION 6077 WAS INTENDED TO SERIOUSLY RESTRICT THE EQUITABLE SHARING PROGRAM. PLEASE HELP US REPEAL SECTION 6077 OR, IN THE ALTERNATIVE, CORRECT ITS LANGUAGE SO THAT IT ONLY APPLIES TO ONE SPECIFIC CATEGORY OF ADOPTIVE FORFEITURES.

AGAIN, ON BEHALF OF THE IACP MEMBERSHIP, I THANK YOU FOR ASKING US TO TESTIFY AT THIS HEARING. I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS.

Mr. HUGHES. That concludes today's hearing.

The subcommittee stands adjourned.

[Whereupon, at 1:49 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—PUBLIC LAW NO. 100-690, NOVEMBER 18, 1988, SECTION 6077. RESTORATION OF EQUITABLE SHARING PRINCIPLE RELATING TO TRANSFER OF FORFEITED ASSETS TO STATE AND LOCAL AGENCIES UNDER THE CONTROLLED SUBSTANCES ACT

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to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

- "(i) has been agreed to by the Secretary of State;
- "(ii) is authorized in an international agreement between the United States and the foreign country; and
- "(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."

SEC. 6076. ADDITIONAL EXCEPTION TO PROVISION RELATING TO FORFEITURE OF CONVEYANCES.

Paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

- (1) in subparagraph (A), by striking out "and" after the semicolon;
- (2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof "; and"; and
- (3) by adding at the end the following new subparagraph:
"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner."

SEC. 6076. FORFEITURES OF CONVEYANCES.

(a) AMENDMENT TO ACT OF AUGUST 9, 1939.—Section 2 of the Act of August 9, 1939 (chapter 618, 53 Stat. 1291; 49 U.S.C. App. 782), is amended by adding at the end the following: "No vessel, vehicle, or aircraft shall be forfeited under this section to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner."

(b) AMENDMENTS TO TARIFF ACT OF 1930.—Section 594(b) of the Tariff Act of 1930 (19 U.S.C. 1594(b)) is amended—

- (1) by inserting "(1)" after "(b)";
- (2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and
- (3) by adding at the end the following:
"(2) Except as provided in paragraph (1) or subsection (c), no vessel, vehicle, or aircraft is subject to forfeiture to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner."

SEC. 6077. RESTORATION OF EQUITABLE SHARING PRINCIPLE RELATING TO TRANSFER OF FORFEITED ASSETS TO STATE AND LOCAL AGENCIES UNDER THE CONTROLLED SUBSTANCES ACT.

(a) **IN GENERAL.**—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

“(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

“(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

“(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.”

(b) **TECHNICAL AMENDMENT.**—Section 511(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(A)) is amended to read as follows:

“(A) retain the property for official use or, in the manner provided with respect to transfers under section 616 of the Tariff Act of 1930, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;”.

(c) **EFFECTIVE DATE.**—Section 551(e)(3)(B) of the Controlled Substances Act, as enacted by subsection (a), shall apply with respect to fiscal years beginning after September 30, 1989.

21 USC 881 note

SEC. 6078. COORDINATION OF POST-SEIZURE PROCEDURES.

(a) **IN GENERAL.**—Part E of the Controlled Substances Act (21 U.S.C. 871 et seq.) is amended by adding at the end the following new section:

“COORDINATION AND CONSOLIDATION OF POST-SEIZURE ADMINISTRATION

“Sec. 517. The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this title, title III, or provisions of the customs laws relating to controlled substances.”.

(b) **CLERICAL AMENDMENT.**—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 516 the following new item:

“517. Coordination and consolidation of post-seizure administration.”.

SEC. 6079. REGULATIONS TO PROVIDE FORFEITURE PROCEDURES.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult, and after providing a 30-day public comment period, shall prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)); section 596 of the Tariff Act of 1930 (19 U.S.C. 1596a(a)); and section 2 of the Act of August 9, 1939 (58 Stat. 1291; 49 U.S.C. App. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) **SPECIFICATIONS.**—The regulations prescribed pursuant to subsection (a) shall—

(1) minimize the adverse impact caused by prolonged detention, and

(2) provide for a final administrative determination of the case within 21 days of seizure, or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that

21 USC 857

21 USC 881 note

Example A

APPENDIX 2.—CORRESPONDENCE FROM CONGRESSMAN WILLIAM J. HUGHES, CHAIRMAN, SUBCOMMITTEE ON CRIME, TO HON. RICHARD THORNBURGH, ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, FEBRUARY 6, 1989

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216

One Hundred First Congress

February 6, 1989

Honorable Richard Thornburgh
The Attorney General
U.S. Department of Justice
Washington, D.C. 20350

Dear Mr. Attorney General:

The Subcommittee on Crime of the House Judiciary Committee is responsible for oversight of forfeiture procedures in the Department of Justice. Pursuant to this responsibility, we have examined periodically your procedures in the Southern District of Florida as a sample District (October 14, 1983, November 25, 1985, March 9, 1987, and March 4, 1988) to evaluate the implementation of the changes in these laws we initiated in the past few years.

In order to follow up on these hearings and to assess the present situation, I would appreciate it if you could provide us by February 28, 1989 an inventory of all property on hand in the Southern District of Florida of Florida as of February 1, 1989 which was seized by the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Marshals Service and the Immigration and Naturalization Service pursuant to civil or criminal procedures. Also indicate where and when the property was seized, appraised value at seizure, monthly storage or maintenance cost, what judicial or administrative procedures are pending on these items and where these issues are pending.

I would also like a report of any use by the Department of Justice of the so-called "substitute asset" provision added to the forfeiture statutes in the Anti-Drug Abuse Act of 1986. Last year Tom Boyd in a letter for Assistant General Bolton indicated that this procedure had been used in only one instance, United States v. Reinaldo Lozano Criminal No. 86-35 NN in the Eastern District of Virginia. I would be interested in the full details of that case plus the full details of any other application of the "substitute asset" provisions.

Honorable Richard Thornburg
Page Two
February 6, 1989

Lastly, I would be interested in what progress the Department has made in the implementation of the post seizure coordination mandated by Section 6078 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690). All of this information is necessary for our review of the forfeiture area in 1989, prior to a hearing early this Spring when we will discuss these and other matters that may need legislative attention.

Sincerely,

William J. Hughes
Chairman
Subcommittee on Crime

WJH:eah

APPENDIX 3.—CORRESPONDENCE FROM THOMAS M. BOYD, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF JUSTICE, TO HON. WILLIAM J. HUGHES, CHAIRMAN, SUBCOMMITTEE ON CRIME, MARCH 17, 1989



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 17 1989

Honorable William J. Hughes
Chairman, Subcommittee on Crime
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hughes:

This responds to your letter of February 6, 1989, requesting information with respect to seized assets in the Southern District of Florida, and requesting a report of any use by the Department of Justice of the "substitute asset" provision added to various forfeiture statutes in the Anti-Drug Abuse Act of 1986.

Enclosed is a record prepared by the United States Marshals Service, which furnishes the data you requested concerning the seized property on hand in the Southern District of Florida, as of January 31, 1989. Three reports are enclosed to give a more complete picture of asset seizures and forfeitures in the Southern District of Florida. Inventory Report 1 lists all assets seized for forfeiture by an investigative agency and in the custody of the U.S. Marshal. Report 4 is a summary tabulation of seized assets, by property category, on hand at the start of fiscal year 1989 (October 1, 1988), disposed of, received, and on hand for the period ending February 23, 1989. In addition, we have provided Report 14, which is a financial synopsis of realty seizures on hand worth more than \$150,000 in appraised value.

In addition, some property was in the custody of DEA on February 1, 1989, prior to their transferring that property to the Marshals Service. DEA is currently preparing a comprehensive list of those items in their custody on that date. That list will be forwarded to you as soon as it is received from that agency.

The Asset Forfeiture Office (AFO) has inquired into the status of the case you cite in your letter, United States v. Reinaldo Lozano, Criminal No. 86-35, Eastern District of Virginia. That Office has learned that the prosecutor in that case has identified three bank accounts and one undeveloped tract of land in Florida as assets subject to the substitute asset provisions in the Court's Forfeiture Order in that case. The three accounts are worth, in total, approximately \$20,000. The

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land has been appraised at approximately \$130,000.

Since the conviction and judgment of the case was affirmed on appeal, the United States Attorneys Office is proceeding with the forfeiture of those assets. The prosecutor stated that the use of the substitute asset provision enabled him to reach assets which would have otherwise been outside the scope of traditional remedies, and which were the only available assets to satisfy the \$1.2 million forfeiture judgment entered by the trial court after the verdict.

The Executive Office of United States Attorneys has sent a teletype inquiry to all United States Attorneys, directing them to notify the Asset Forfeiture Office, Criminal Division, of any use of the "substitute asset" provision in any forfeiture pending or completed during the past twelve months. To date, the Department has received notification of one other case in which the provision has been used in forfeiture litigation. That case was United States v. Arthur Strissel, in the District of Maryland, Case No. HAR-88-0181. In that case, approximately \$157,000 was recovered in substitute assets from the defendant. If we are advised of any other positive responses to our teletype inquiry, we will furnish all relevant data regarding those cases to you promptly.

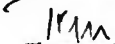
In response to your final inquiry, the Department of Justice and Treasury are developing a joint plan to coordinate the management of seized assets.

Based upon seizure statistics, targets of opportunity were identified for the consolidation of management and disposition of assets seized by Customs and Justice agents. The planning sessions have also considered the legal requirements of a recent opinion issued by Office of Legal Counsel (OLC), Department of Justice, which clarified the authority of the Customs Service to seize and forfeit property or assets under the provisions of 21 U.S.C., Section 881, and the subsequent implementation memorandum signed by Treasury and Justice officials (copy attached).

As you know, the management and disposal of forfeited real property presents many unique and complex challenges. Although no final agreement has been reached, we have proposed that all realty seizures be consolidated into the U.S. Marshals seized asset management system. At the same time, we plan to develop joint-use contracts to manage and dispose of conveyances and other personal properties seized by Justice and Customs officers in South Florida and the Southwestern sections of the United States. A draft Memorandum of Understanding (MOU) proposed by the Customs Service recommends a six month pilot project. Work is continuing to finalize the MOU in the very near future.

I hope that this information answers the questions presented in your letter of February 6, 1989.

Sincerely,


Thomas M. Boyd
Assistant Attorney General
Office of Legislative Affairs

APPENDIX 4.—CORRESPONDENCE AND ATTACHED INVENTORY FROM
CAROL T. CRAWFORD, ASSISTANT ATTORNEY GENERAL, OFFICE OF
LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF JUSTICE, TO HON. WIL-
LIAM J. HUGHES, CHAIRMAN, SUBCOMMITTEE ON CRIME, JULY 10,
1989



U.S. Department of Justice

Office of Legislative Affairs

JUL 10 1989

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 10 1989

The Honorable William J. Hughes
Chairman
Subcommittee on Crime
Committee on the Judiciary
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This letter provides updated information concerning our March 17, 1989 response to your letter of February 6, 1989, requesting information with respect to seized assets in the Southern District of Florida, and requesting a report of any use by the Department of Justice of the "substitute asset" provisions added to various forfeiture statutes in the Anti-Drug Abuse Act of 1986.

In our March 17th response, it was indicated that other Department of Justice agencies had property in their custody in the Southern District of Florida, which would not necessarily be reflected in the inventory provided by the U.S. Marshals Service, which was attached to our letter. It was also noted that we would forward that additional information when it became available.

Please find enclosed a current inventory furnished by the FBI, identifying all property under their control in the Southern District of Florida. This data should complement the previously-supplied inventories prepared by the Marshals Service.

Also, our response stated that the "substitute asset" provision had been used in two named cases, and that an inquiry had been made to all United States Attorneys concerning use of the provision in any case within the past twelve months.

We have received notice of two additional cases in which that provision has been used. One case is United States v. Michael T. Dugan, Crim. No. 88-78-CR, in the Southern District of Indiana, which is still pending. The other case is from the Northern District of Illinois, United States v. Struminikovski, 87-CR-669-4, in which the jury returned a forfeiture verdict against two houses from which the defendant had sold narcotics.

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The defendant sold both properties to apparently bona fide purchasers. The "substitute asset" provision was used to forfeit \$69,000 in a bank account owned by the defendant, in lieu of the two houses.

We are also informed about United States v. Anile, in the Northern District of West Virginia. The defendant agreed to pay \$65,000, representing his interest in real estate and a business subject to forfeiture due to narcotics-related activities. Due to the interests of other parties in the properties, the forfeiture of the subject properties was not feasible. However, the defendant paid the appraised value of his interest in the properties, under the substitute asset provisions of 21 U.S.C. Section 853.

If we are informed of any other positive responses to the inquiry teletype, we will furnish all relevant data regarding those cases to you promptly.

Sincerely,



Carol T. Crawford
Assistant Attorney General

ATTACHMENT #

SEIZURE NUMBER	CASE NUMBER	DATE SEIZED	PLACE SEIZED	DESCRIPTION	APPRAISED VALUE	TOTAL FBI STORAGE & MAINTENANCE COSTS	PENDING STATUS/DIST.
*3460-84-P-014	12B-752	10/27/83	Stuert, FL	76 Arcospetiela 341G	225,000	16,627.47 (E. OK - stay entered in E. OK)	J - S. FL
*3460-87-P-020	12B-1905	02/17/87	Miami, FL	87 Mercedes 560 SEL	63,000	4,472.00	J - S. FL (Trial set for 4/89)
3460-87-P-023	12B-1905	02/25/87	Ft. Laud., FL	Real Property	695,000	---	J - S. FL (Trial set for 4/89)
3460-87-P-025	12B-1905	02/17/87	Miami, FL	Assorted Jewelry	332,039	---	J - S. FL (Trial set for 4/89)
3460-87-P-026	12B-1926	04/02/87	Delrey Beach, FL	\$535,450.00 in U.S. Currency	535,450	---	J - S. FL (Trial set for 4/89)
3460-87-P-050	245B-317	06/29/87	Miami, FL	Real Property	200,000	---	J - S. FL
3460-87-P-053	12D-1213	06/09/87	Miami, FL	\$133,120 in U.S. Currency	133,120	---	J - S. FL
3460-87-P-054	245B-363	06/18/87	Jupiter, FL	Real Property	250,000	---	J - S. FL
*3460-87-P-055	245B-363	06/18/87	N. Palm Beach, FL	85 Lincoln Towncar	13,900	P.D. has.	J - S. FL
3460-87-P-082	245B-363	06/29/87	Martin County, FL	Real Property	54,000	---	J - S. FL
3460-87-P-083	245B-363	06/29/87	Martin County, FL	Real Property	17,000	---	J - S. FL
3460-87-P-087	12D-1213	09/16/87	Miami, FL	Real Property	230,000	---	J - S. FL
3460-87-P-103	12D-1213	09/16/87	Miami, FL	Real Property	240,000	---	J - S. FL
*3460-88-P-002	245B-353	09/16/87	Ft. Pierce, FL	86 Ford Bronco	12,000	818.25	J - S. FL (Criminal)
3460-88-P-005	245B-353	09/16/87	Ft. Pierce, FL	85 Rybovich	56,600	---	J - S. FL (Criminal)
3460-88-P-014	12B-1795	08/25/87	Miami, FL	\$1,000,000 in U.S. Currency	1,000,000	---	J - S. FL

* USMS may not have reported.

3460-88-F-016	12B-1795	10/01/87	Boca Raton, FL	\$245,000 in U.S. Currency	245,000	---	J - S. FL
3460-88-F-017	12B-1795	09/09/87	S. Miami, FL	\$232,900 in U.S. Currency	232,900	---	J - S. IL
3460-88-F-018	12B-1795	09/10/87	Ft. Laud., FL	\$101,000 in U.S. Currency	101,000	---	J - S. IL
3460-88-F-021	12B-1926	09/23/87	Miami, FL	Real Property	1,200,000	---	J - S. FL
3460-88-F-022	12B-1926	09/23/87	Miami, FL	78 Porsche	17,000	---	J - S. FL
3460-88-F-023	12B-1926	09/23/87	Miami, FL	83 Jaguar XJ6	17,700	2,040.25	J - S. FL
3460-88-F-024	12B-1926	09/23/87	Miami, FL	83 Mercedes 500 SEL	33,000	2,040.25	J - S. FL
3460-88-F-025	12B-1926	09/23/87	Miami, FL	85 Porsche 928S	34,500	2,040.25	J - S. FL
3460-88-F-026	12B-1926	09/23/87	Miami, FL	85 41' Corsa	60,000	1,413.72	J - S. FL
3460-88-F-027	12B-1926	09/23/87	Miami, FL	1984 Vessel	15,000	---	J - S. FL
3460-88-F-028	12B-1926	09/23/87	Miami, FL	Off Shore Catamaran	4,000	---	J - S. FL
3460-88-F-032	245B-353	12/04/87	Ft. Pierce, FL	Real Property	159,470	---	J - N. OK (Criminal)
3460-88-F-033	245B-353	12/04/87	St. Lucie County, FL	Real Property	253,890	---	J - N. OK (Criminal)
3460-88-F-034	245B-353	12/04/87	St. Lucie County, FL	Real Property	123,780	---	J - N. OK (Criminal)
3460-88-F-035	245B-353	10/25/87	Port Salerno, FL	84 Rybovich	60,000	---	J - N. FL (Criminal)
3460-88-F-045	12B-1990	07/18/87	Miami, FL	\$22,697 in U.S. Currency	22,697	---	J - N. OK
3460-88-F-048	245C-384	11/11/87	Pembroke Pines, FL	81 Sea Ray 25 Foot	22,230	---	A
3460-88-F-053	12B-2210	06/22/88	Hallandale, FL	\$7,200 in U.S. Currency	7,200	---	

*3460-88-F-055	165B-1791	12/08/87	Miami, FL	87 Mercedes Benz 300D	39,500	2,163.75	J - S. FL
3460-88-F-058	9A-3900	06/23/86	Miami, FL	\$16,388.69 in U.S. Currency	16,388	---	J - S. FL
*3460-88-F-060	245B-363	10/30/87	Riveria Beach, FL	79 Mercedes 240D-Diesel	6,225	---	A
3460-88-F-066	183C-2250	01/27/88	Miami, FL	Real Property	102,000	---	J - S. FL
3460-88-F-071	12D-1789	05/27/88	Miami, FL	Real Property	137,000	---	J - S. FL
3460-88-F-081	183C-2250	09/18/87	Miami, FL	Real Property	140,000	---	J - S. FL
3460-88-F-083	245B-363	02/08/88	Wellington, FL	Real Property	320,000	---	J - S. FL
3460-88-F-085	245B-406	06/09/88	Ft. Pierce, FL	Real Property	82,700	---	J - S. FL
3460-88-F-086	183B-2378	01/09/88	Pompeno Beech, FL	\$36,700 in U.S. Currency	36,700	---	J - S. FL
3460-88-F-087	183B-2378	01/09/88	Miami, FL	\$3,000 in U.S. Currency	3,000	---	J - S. FL
*3460-88-F-089	245B-363	02/25/88	Jupiter, FL	85 Cadillac	12,375	\$128.00	J - S. FL
3460-88-F-092	245B-363	05/24/88	Devie, FL	Real Property	800,000	---	J - S. FL
3460-88-F-096	245B-363	06/03/88	Palm Beech Gardens, FL	Real Property	51,750	---	J - S. FL
3460-88-F-098	245B-363	05/24/88	Jupiter, FL	Real Property	75,000	---	J - S. FL
3460-88-F-099	245B-363	07/08/88	Lake Pk, FL	Real Property	160,000	---	J - S. FL
3460-88-F-100	245B-363	06/01/88	Lake Pk, FL	Real Property	42,000	---	J - S. FL
3460-88-F-111	245B-378	06/02/88	Delrey Beach, FL	Real Property	80,000	---	J - S. FL
3460-88-F-113	12B-2035	04/13/88	Lake Worth, FL	Real Property	100,000	---	J - S. FL (trial to be held)

3460-88-F-114	12B-2035	04/13/88	Lake Worth, FL	Real Property	100,000	---	J - S. FL
3460-88-F-115	245B-378	04/13/88	Delray Beach, FL	Real Property	1,000,000	---	J - S. FL (trial to be held)
3460-88-F-116	245B-378	04/13/88	Delray Beach, FL	Real Property	300,000	---	J - S. FL
3460-88-F-117	12B-2035	04/13/88	Lake Worth, FL	Real Property	300,000	---	J - S. FL
3460-88-F-129	245B-363	05/24/88	Palm Beach Gardens, FL	Real Property	414,500	---	J - S. FL
3460-88-F-131	245B-363	05/24/88	N. Palm Beach, FL	Real Property	115,000	---	(Stayed pending outcome of 88-8058 CR-2LOCH) J - S. FL (Lis Pendens Filled)
*3460-88-F-136	245B-363	06/18/87	Jupiter, FL	Various Bonds	10,000	---	J - S. FL
3460-88-F-141	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	J - S. FL
3460-88-F-142	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-143	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-144	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-145	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-146	245B-378	06/02/88	Delray Beach, FL	Real Property	200,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-147	245B-378	06/02/88	Delray Beach, FL	Real Property	110,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
3460-88-F-148	245B-378	06/02/88	Delray Beach, FL	Real Property	110,000	---	(Lis Pendens filed, Compl. & Warr. filed) J - S. FL
*3460-88-F-149	245B-363	05/24/88	Jupiter, FL	78 25'6" Make	10,130	P.D. has	J - S. FL
3460-88-F-150	245B-363	05/24/88	Riviera Beach, FL	78 28' Topaz	20,440	---	A
3460-88-F-151	12B-2056	09/19/88	Miami, FL	Real Property	180,000	---	J - S. FL

3460-88-F-152	245B-378	06/02/88	Boynton Beach, FL	Real Property	100,000	---	J - S. FL
3460-88-F-155	245B-438	09/14/88	Glades County, FL	Real Property	11,032,500	---	J - S. FL
3460-88-F-156	245B-438	09/14/88	Glades County, FL	Real Property	10,865,000	---	J - S. FL
3460-88-F-157	245B-438	09/14/88	Martin County, FL	Real Property	11,642,500	---	J - S. FL
*3460-88-F-160	245B-438	07/18/88	Avon Park, FL	74 Cressna T-210	16,000	P.D. has	J - S. FL
3460-88-F-166	29A-6002	08/26/88	Boca Raton, FL	Real Property	90,000	---	J - S. FL
3460-88-F-167	12B-2168	07/22/88	Boca Raton, FL	83 Porsche 944	10,700	---	A
3460-88-F-170	12B-2168	07/25/88	Boca Raton, FL	\$235,260 U.S. Currency	235,260	---	J
3460-88-F-172	12B-2070	11/03/87	Miami, FL	\$12,000 in U.S. Currency	12,000	---	J - S. FL
*3460-89-F-003	245B-363	10/07/88	W. Palm Beach, FL	1985 Island Runner 29 Ft.	25,150	---	A
*3460-89-F-008	12B-1913	10/18/88	Miami, FL	81 Cadillac Seville	4,950	413.00	A
3460-89-F-019	12B-1913	11/01/88	Miami Beach, FL	Regal 19 Ft.	16,600	---	A
3460-89-F-020	245B-363	11/01/88	Davie, FL	Real Property	450,000	---	J - S. FL
3460-89-F-023	12B-2272	10/05/88	Miami Beach, FL	\$47,735 U.S. Currency	47,735	---	A
3460-89-F-024	12A-2044	01/03/89	Miami, FL	Real Property	81,016	---	J - S. FL
3460-89-F-025	12A-2044	01/04/89	Miami, FL	Real Property	90,000	---	J - S. FL
3460-89-F-026	12A-2044	01/03/89	N. Miami Beach, FL	Real Property	80,000	---	J - S. FL
3460-89-F-027	12A-2044	01/17/89	Hollywood, FL	Real Property	95,000	---	J - S. FL

3460-89-F-028	12A-2044	01/17/89	Hollywood, FL	Real Property	165,000	---	J - S. FL
3460-89-F-031	12A-2044	11/30/88	N. Miami Beach, FL	79 Mercedes Benz 280S	9,075	---	A
3460-89-F-055	12A-2044	11/30/88	Miami, FL	86 Jeep Cherokee	7,900	---	A
3460-89-F-056	12B-2132	01/05/89	Miami, FL	\$6,700,000 U.S.	6,700,000	---	J - S. FL
3460-89-F-066	245B-246	01/04/89	Miami, FL	Real Property	129,392	---	J - S. FL

APPENDIX 5.—CORRESPONDENCE AND ATTACHED INVENTORY FROM
JOHN K. MEAGHER, ASSISTANT SECRETARY, LEGISLATIVE AFFAIRS,
DEPARTMENT OF THE TREASURY, TO HON. WILLIAM J. HUGHES,
CHAIRMAN, SUBCOMMITTEE ON CRIME, APRIL 20, 1989



DEPARTMENT OF THE TREASURY
WASHINGTON

April 20, 1989

APR 25 1989

Dear Mr. Chairman:

As requested in your letter of February 17, 1989, enclosed please find the current inventory of all property on hand in the Southern District of Florida which was seized by the Customs Service pursuant to civil or criminal procedures. Also enclosed per your request, are copies of two recent evaluations of our contract with Northrop Worldwide Aircraft Services, Inc.

Provisions of the Omnibus Drug Initiative Act of 1988 mandate that the Department of Treasury and Department of Justice coordinate and consolidate the post-seizure administration of seized property. The U.S. Marshals Service and the Customs Service are now sharing seized property management information and have conducted discussions regarding implementation of several initiatives to improve the efficiency and/or cost-effectiveness of the post-seizure management of property. These discussions should lead to a formal agreement to conduct a 6 month pilot test to consolidate the management of different types of property in various locations throughout the United States.

We hope this information will be of use to the Subcommittee on Crime. Please do not hesitate to let me know if you have further questions concerning this matter.

Sincerely,

John K. Meagher
Assistant Secretary
(Legislative Affairs)

The Honorable William J. Hughes
Chairman
Subcommittee on Crime
Committee on Judiciary
House of Representatives
Washington, D.C. 20515-6216

Enclosures

CUSTOMS SEIZED PROPERTY - SOUTHERN DISTRICT OF FLORIDA

The attached inventory is adapted from an existing Automated Property Management System report. Element headings and codes are defined below:

SEIZURE NO LI - All property taken in a single action is assigned the same seizure number. Distinct classes of property, such as vessel equipment, are given separate line item (LI) numbers under the general seizure number.

CG - Indicates basic type of property, i.e. VS = Vessel, VH = Vehicle, and GP = General Property.

STATUS - The A, J, D and R codes designate the broad status categories requested by the subcommittee. Following numeric codes provide further detail:

CATEGORY A - Subject to Administrative Forfeiture Proceedings - Miami Customs District

CATEGORY J - Subject to Judicial Forfeiture Proceedings - Southern District of Florida

CATEGORY D - Forfeited - Awaiting Disposition

CATEGORY R - Property Not Subject to Forfeiture

Numeric Status Detail Identifiers:

8000/0100 - Shell Case Opened
 " 1800 - Seizure Notice Sent to Owner/Violator
 " 1840 - Seizure Notice Response Extension Granted
 " 2200 - Petition in Adjudication
 " 2320 - Petition Under Investigation
 " 2340 - Petition Referred to Headquarters
 " 2420 - Petition Referred for Comment
 " 2700 - Petition Denied
 " 2730 - Offer in Compromise Referred to Headquarters
 " 2800 - Supplemental Petition in Adjudication

- 2 -

8020	- Held as Evidence
8030	- Administrative Forfeiture Proceedings Commenced
8040	- Judicial Forfeiture Proceedings Commenced
8050	- In Screening for Local Use
8060	- In Screening for Servicewide Use
8090	- Ordered Released on Deposit or Letter of Credit
8100	- Ordered Remitted to Owner/Violator
8110	- Ordered Remitted to Lienholder
8130	- Ordered Destroyed
8140	- Ordered Sold (Next Auction 3/23/88)
8150	- Ordered Quick Sold
8160	- Ordered Retained by Customs
8170	- Ordered Transferred to Another Federal Agency

APPRAISED VALUE - The value of line item one for conveyance seizures includes the value of equipment and property separately listed (line items two, three etc.) Zero values for recent seizures indicate appraised value has not yet been determined.

RECURRING STORAGE AMOUNT - These figures represent monthly holding costs. When only one figure is indicated for a seizure of two or more line items this amount represents the cost for the entire seizure.

RECURRING MAINTENANCE AMOUNT - These figures represent monthly maintenance costs. Absent a data entry there is no maintenance cost being incurred.

[illegible]

www.1010.com 0426 1-1-05 TUESDAY MORNING NEWS 5:37 AM

FM556UAA 170500Z
TIME 1112.4 DATE 03/03/89

[illegible]

2. **Prüfungsinhalt:** Die Prüfung umfasst die Themenbereiche: Grundlagen der Betriebswirtschaftslehre, Marketing, Beschaffung, Produktion, Vertrieb, Finanzierung und Rechnungswesen.

[illegible]

[illegible]

DATE	DESCRIPTION
11/11/54	100.00
11/12/54	100.00
11/13/54	100.00
11/14/54	100.00
11/15/54	100.00
11/16/54	100.00
11/17/54	100.00
11/18/54	100.00
11/19/54	100.00
11/20/54	100.00
11/21/54	100.00
11/22/54	100.00
11/23/54	100.00
11/24/54	100.00
11/25/54	100.00
11/26/54	100.00
11/27/54	100.00
11/28/54	100.00
11/29/54	100.00
11/30/54	100.00
12/1/54	100.00
12/2/54	100.00
12/3/54	100.00
12/4/54	100.00
12/5/54	100.00
12/6/54	100.00
12/7/54	100.00
12/8/54	100.00
12/9/54	100.00
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12/11/54	100.00
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12/16/54	100.00
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2/30/55	100.00
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3/4/55	100.00
3/5/55	100.00
3/6/55	100.00
3/7/55	100.00
3/8/55	100.00
3/9/55	100.00
3/10/55	100.00
3/11/55	100.00
3/12/55	100.00
3/13/55	100.00
3/14/55	100.00
3/15/55	

MS3611A 1951.4
TIME 11:11 AM 03/03/11

**MILITARY MAIL & AIR MAIL; PAYABLE WHEN
LIFTING RECEIVING THE MAIL**

1000

[illegible]

PMS-0004 FRIDAY
 TIME 11:4 DATE 03.03.89
 NO. 1140, 1110 114100 114100 114100 114100
 1110105 REC'D. FEE DETAIL
 1110105 114100 03.03.89

[illegible]

[illegible][illegible]

UNITED STATES GOVERNMENT

MemorandumDEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: JUN 30 1988

FILE: FAC-9-01-CM:L:S RLA

TO : Althea Kearney
Contracting Officer

FROM : Director, Seized Property Division
FDO, Customs Contract To 85-37

SUBJECT : Fourth Quarter FY 1988 Evaluation of
Contract To 85-37

We have completed our evaluation of contractor performance under the above referenced contract for the Fourth Quarter, FY 1988.

The overall rating for this period is 88. Following is a scoring breakdown by evaluation criteria and evaluation comments.

MANAGERIAL COOPERATION - 79 points

The contractor's managerial cooperation with the COTR, alternate COTR, OLM audit staff, and Customs field offices was rated good. The performance level was satisfactory, and areas requiring improvement were approximately offset by better performance in other areas. Areas requiring improvement are:

1) We were disappointed by the contractor's failure to timely and adequately respond to the Contracting Officer's letter of June 3, 1988, "Stand Alone Data Processing." This letter requested the contractor submit a cost proposal for the acquisition, programming and operation of a stand alone data processing system. We have detected a lack of full cooperation in this effort on the part of both NWASI U.S. Customs Support Division and NWASI corporate management personnel.

2) We continue to experience instances in contractor operations when the COTR is not adequately or timely briefed and/or consulted regarding significant changes in contractor policies and procedures.

- 2 -

QUALITY OF PERFORMANCE/CONTROL - 95 points

The contractor's quality of performance/control was considered excellent. Major workload increase experienced during the Third Quarter continued into this rating period, and there were no areas indicative of poor performance. The contractor sustained an effort that reflected an ingenious, creative response under the very adverse circumstances of a rapidly escalating workload.

MANPOWER UTILIZATION - 94 points

The contractor's manpower utilization was considered excellent. As indicated under Quality of Performance, major workload increase continued in the Fourth Quarter, and there were no areas indicative of poor performance. In the face of this workload increase the contractor requested substantial staffing and equipment enhancements. Budget constraints required delay of these enhancements until FY 89, and yet the contractor was able to sustain excellent performance under these very adverse circumstances.

COST CONTROL - 84 points

The contractor's control of contract costs was considered very good. The satisfactory level of performance was exceeded, and we can cite only a few minor areas requiring improvement:

1) Automated Systems Costs - We view the Contracting Officers request for a proposal for a stand alone data processing system (see Managerial Cooperation) as part of a custom initiated program to save data processing costs. To the degree that this program is not fully supported by contractor management, we find a commensurate deficiency in cost control.

2) Vehicle Transportation Costs - An incident in Houston, Texas during the Fourth Quarter revealed a lack of adequate cost controls in that area for vehicle transportation.

As is evident by an overall very good rating, we are pleased with the contractor's performance under this contract. If you have any questions, please do not hesitate to call on me.


Rex L. Applegate



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON, D.C. 20229



JUN 3 1968

REFER TO

FAC-13-06-CM:L:S RLA

Mr. Roy Hooks
 Manager, U.S. Customs Service Support Division
 Northrop Worldwide Aircraft Services, Inc.
 P.O. Box 1167
 Lawton, Oklahoma 73502-1167

Subject: Stand Alone Data Processing

Dear Mr. Hooks:

As you are aware, one of the recommendations of the ERA report on the Seized Property Program involved their dissatisfaction with certain aspects of the Customs Service Support Division data processing system. Specifically, ERA felt that the present system's use of the COBOL operating language leads to slow response times and a loss of needed flexibility. ERA also expressed concerns about the portability of this system should the contract be awarded to another concern.

In addition to these concerns, it also appears that the present system has presented unexpected difficulties in our efforts to effect an interface with the Customs automated system.

For the above reasons we are seriously considering implementing a stand alone data processing system based on equipment owned or leased by the government. This equipment should lead to system that satisfied ERA's concerns, is easily linked to the Customs system, and is easily portable.

Please submit as soon as practicable a cost proposal for acquisition, programming and operation of such a system. If you have any questions do not hesitate to call me.

Sincerely,

Stanley Livingston
 Stanley Livingston
 Contracting Officer

\$ 250,000
 Treasury
 ADP Requirements Study

(FIELD = LOW 80's)

2.106

WEIGHTING FACTORS—

- (% OF WORKLOAD BY AIR VALUE)

<u>DISTRICT</u>	<u>SCORE</u>	<u>FACTOR</u>	<u>WEIGHTED FACTOR</u>	<u>(TOP 15 ONLY)</u>
1. LA	2.16	13.1	15.6	.337
2. MIAMI	1.91	11.2	13.3	.254
3. S.F.	2.0	10.4	12.35	.247
4. JFK	2.0	9.4	11.2	.224
5. NYC	2.36	7.5	8.9	.210
6. NEWARK	3.0	6.0	7.1	.213
7. SEATTLE	2.9	6.0	7.1	.206
8. DALLAS	2.0	3.2	3.8	.076
9. LAREDO	2.2	3.1	3.7	.081
10. SAN DIEGO	2.58	2.8	3.35	.086
BALTIMORE	2.0	2.7	3.2	.064
HOUSTON	1.66	2.6	3.1	.052
SAN JUAN	2.52	2.4	2.85	.072
TAMPA	2.33	2.0	2.4	.056
INDIANAPOLIS		1.8	2.05	
EL PASO		1.7		
NEW ORLEANS	2.91	1.4		
HAWAII		1.2		
CHARLESTON		1.1		
DETROIT		1.1		
CHICAGO	2.0	1.1		
BOSTON		1.0		

EXAMINER
REVIEWER

SCALE

0 = 0
3 = 100

75 8

25 per 1 = .1 = 2.5 per 100
or 1.4 = 35

TOP 10 = 72.7%

TOP 15 = 84.2%

Comments for Bal.

BIG

<u>DISTALNT</u>	<u>FIELD</u>	<u>CO</u>	<u>ORANGE</u>	<u>COMMENTS</u>
JFK	2.0	2.0	2.0	
N.Y. SEAPORT	2.3	2.4	2.36	contours, professional, timely
TAMPA	2.3	2.4	2.33	assisted in training, good service
HOUSTON	1.7	1.6	1.66	costs, destruction
SAN FRANCISCO	2.0	2.0	2.0	
LANEO PMS-	3.0	2.2 2.2	2.6	delay in relay of release by 60% vend
LANEO-DIST.	2.6	.5	1.8	fielding, co charges must justify requests
MIAMI - ^{FPM} comp.	1.6	2.4	1.2 2.0	super sets coming back
MIAMI AD-H	1.7	2.0	1.83	not able handle any requests
LOS ANGELES ✓	2.0 2.1	2.3	2.16	requests, not rel of, slow, steps
SAN DIEGO ✓	3.0	2.0	2.58	
EL PASO				
SEATTLE	3.0	2.8		By phone - Amelito
NOGALES ✓				
SAN JUAN	2.5	2.5	2.52	
NEWARK	3.0	3.0	3.0	
DALLAS	2.0	2.0	2.0	
BALTIMORE	2.0	2.0	2.0	
CHICAGO	1.85	2.2	2.0	
BUFFALO	2.4	2.8	2.58	
NEW ORLEANS	2.15	2.0	2.91	

OTHERS

<u>DISTRICT</u>	<u>FIELD</u>	<u>CO</u>	<u>OVERALL</u>	<u>COMMENTS</u>
DULUTH	2.0	2.0	2.0	excessive storage charges
MINNAPOLIS	2.0	2.0	2.0	" " "
MILWAUKEE	2.8	2.6	2.7	refugees
ORLANDO DFL	2.0	2.2	2.1	gotten data over alone
ST. ALBANS	2.0	2.0	2.0	
PORTLAND, ME.	2.0	2.0	2.0	professionals, continue
PORT SMITH	2.85	2.2	2.6	
NOFOLK	2.0	2.0	2.0	
MOBILE	2.0	2.0	2.0	
WASH. DC	2.0	2.0		

~~1. delay in relay of research report from Co~~

1. delay in relay of research report from Co to local vendor

2. occasional reluctance to give changes - must sometimes justify request

3. delay getting design's work from manufacturer - 2-3 months

4. prompt notification of adverse incidents - Abney etc

UNITED STATES GOVERNMENT
MemorandumDEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: FEB 15 1989

FILE: FAC-9-01-CM:L LBG

TO : Althea Kearney
Contracting Officer

FROM : FDO, Seized Property Contract

SUBJECT: First Quarter FY 1989 Evaluation of Tc 85-37

We have completed our evaluation of contractor performance under the referenced contract for the First Quarter, FY 1989. The overall rating for this period is 84 which is in the very good range. The scoring this period is based on the following input -- 50 percent Seized Property Division, 25 percent audit staff and 25 percent from the field surveys. A scoring breakdown by evaluation criteria, all of which are in the very good range, is as follows:

MANAGERIAL COOPERATION - 82 points

QUALITY OF PERFORMANCE/CONTROL - 87 points

MANPOWER UTILIZATION - 85 points

COST CONTROL - 80 points

Please note that many Districts specifically complemented Ms. Jean Orr for her quality performance. We recommend she receive some type of recognition for her outstanding performance.

MANAGERIAL COOPERATION

We were disappointed with the lack of willingness to deal effectively and swiftly with the Port Arthur case. Credits were not issued on this case without considerable pressure from Customs and outside entities. Furthermore, we consider the amount of credits granted thus far insufficient for the case as a whole and will be pressing for further credits/refunds. We were also concerned with the basic Webster contract itself and believe that Northrop was in error in issuing this sort of fee schedule.

We continue to be concerned about timeliness. The contractor resists providing requested materials without prolonged and persistent pressure. Two examples this quarter involved copies of Northrop's audits and copies of new procedures implemented by Northrop.

Last fall we requested an analysis of vessel storage strategies. We see a potential cost savings from the use of dry storage. This analysis is yet to be provided and should remain a priority for the contractor to complete.

QUALITY OF PERFORMANCE

The points in this category have dropped from the previous quarter. This is largely due to the inability of Northrop to implement and carry out a solid Marketing and Sales Program. We requested a Marketing and Sales Specialist be hired 2 years ago, and Northrop has yet to respond to this request. Specifically, we are very concerned that gross revenues from sales have been declining while the value of the property sold has been increasing.

	FY 87	FY 88
Value of property sold	\$28,188,666	\$56,521,200
Units sold	2,286	2,812
Revenue from sales	\$9,685,896	\$ 8,779,330

Northrop's management reports for this quarter, moreover, also indicate that the return on appraised value has also been substantially below prior figures, with drops in return on appraised value of up to 5-15 percent from prior quarters. Northrop has not provided any satisfactory explanation on this issue. However, it is clear that the goal of the contract to maximize the price of property sold at auction is not being achieved.

Several Districts are not receiving timely information and/or reports on incidents regarding property loss, damage or deterioration. Information regarding unusual circumstances or problems encountered by the contractor are not communicated to Districts in a timely manner.

MANPOWER UTILIZATION

This is another category where the performance has dropped from the previous quarter. Again, we are very concerned with the utilization of resources in the Marketing and Sales area. The new Sales/Operational approach has some flaws in terms of overall coordination. The extended use of field operational personnel to conduct large auctions and perform specialized sales marketing functions is affecting both the success of auctions and the performance of routine property management and disposition functions. There were indications that critical operational items were being ignored because local coordinators, not yet sufficiently trained to handle sales, were unable to perform

either function well. The sudden drop in effectiveness in an already weak area is of great concern to the government.

Several Districts continued to report an unusual amount of personnel turnover in the contractor's central office. This is undoubtedly contributing to the coordination, communication and timeliness problems.

COST CONTROL

There are weaknesses in cost control as indicated by the contract cost overrun for the last 2 years. Northrop should implement a financial accounting/cost projection system that enables more accurate and timely projections of total contract costs, especially during the last quarter of the fiscal year. This would include a procurement mechanism to accrue costs on a work order basis in accordance with subcontract or purchase order terms. We are also very concerned that the Average Cost Report requested some time ago is yet to be provided.

Another major effort which is remains unresolved is a cost accounting methodology based on standard costs. The contractor should continue to develop and implement this approach. Northrop has yet to provide a timetable for this initiative. Regular progress reports on the status of this critical effort should be provided to the COTR.


Lynda B. Gore

**APPENDIX 6.—CORRESPONDENCE FROM HON. WILLIAM J. HUGHEE,
CHAIRMAN, SUBCOMMITTEE ON CRIME, TO HON. NICHOLAS S.
BRADY, SECRETARY OF THE TREASURY, DEPARTMENT OF THE TREAS-
URY, FEBRUARY 17, 1989**

MAJORITY MEMBERS

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ROBERT W. EASTMAN, WISCONSIN
DON EDWARDS, CALIFORNIA
JOHN CORNYN, JR., TEXAS
RICHARD L. HAZELL, KENTUCKY
WILLIAM J. HUGHEE, NEW JERSEY
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BARNEY FRANK, MASSACHUSETTS
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BRUCE A. MCKENNA, CONNECTICUT
EDWARD P. FEINSTEIN, OHIO
LAWRENCE J. BARTT, FLORIDA
HOWARD J. BERNARD, CALIFORNIA
RICK BOUCHER, VIRGINIA
MARLEY D. STANFORD, JR., WEST VIRGINIA
JOHN BRIDGES, TEXAS
BENJAMIN L. CARDIN, MARYLAND
ROBERT C. BYRD, MISSISSIPPI

ONE HUNDRED FIRST CONGRESS

Congress of the United States**House of Representatives****COMMITTEE ON THE JUDICIARY**

2137 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-8218

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DUCK DOUGLAS, NEW HAMPSHIRE
CHAD T. JAMES, FLORIDA

MAJORITY—235-2001

MINORITY—225-0005

February 17, 1989

Honorable Nicholas S. Brady
Secretary of the Treasury
U.S. Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

The Subcommittee on Crime of the House Judiciary Committee is responsible for oversight of forfeiture procedures. Pursuant to this responsibility, we have examined periodically your procedures in the Southern District of Florida (October 14, 1983, November 25, 1985, March 9, 1987 and March 4, 1988) to evaluate the implementation of the changes in these laws we initiated in the past few years.

In order to follow up on these hearings and to assess the present situation, at least as it applies in the Southern District of Florida, I would appreciate it if you could provide us by March 3, 1989 an inventory of all property on hand in the Southern District of Florida as of February 1, 1989 which was seized by the U.S. Customs Service pursuant to civil or criminal forfeiture procedures. Also indicate where and when the property was seized, appraised value at seizure, monthly storage or maintenance cost, what judicial or administrative procedures are pending on these items and where these issues are pending.

As you probably know, we have asked the General Accounting Office to investigate the relative merits of the U.S. Customs Service's approach to managing seized assets as distinguished from that used by the Department of Justice. As part of this process, we would appreciate any recent evaluations of your contract with Northrop Worldwide Aircraft Service, Inc. and what progress the Department has made in the implementation of the post-seizure coordination mandated by §6078 of the Anti-Drug Abuse Act of 1984 (Public Law 100-690).

All of this information is necessary for our review of the forfeiture area in 1989, prior to a hearing early this Spring when we will discuss these and other matters that may need some legislative attention.

Sincerely,

William J. Hughee
Chairman
Subcommittee on Crime

WJH:eoh

APPENDIX 7.—STATE METHODS OF DISTRIBUTING PROCEEDS OF DRUG FORFEITURES

STATE METHODS OF DISTRIBUTING PROCEEDS OF DRUG FORFEITURES

Alabama:	Distributed to the fund of the municipal, county, or state government(s) whose law enforcement officials participated in the investigation leading to the seizure.
Alaska:	Retained by the local agency charged with enforcement of the act.
Arizona:	Deposited into the anti-racketeering fund of the state or political subdivision responsible for the seizure; if no such fund exists, into the general fund.
Arkansas:	Real property proceeds: 40 percent of the State treasury; 40 percent to the agency perfecting the arrest; and 20 percent to the county responsible for the prosecution. Other property proceeds: deposited into the general fund.
California:	Sixty-five (65) percent to state and local entities participating in the seizure; 20 percent to the department of mental health; 10 percent to the prosecutorial agency; and five percent to non-profit groups which provide information leading to seizures.
Colorado:	Ten (10) percent to the state general fund for law enforcement purposes; 1.5 percent to the district attorney; remainder divided among the seizing agency; the victim(s) of acts resulting in forfeiture, and a revolving fund for drug and alcohol abuse programs.
Connecticut:	Not addressed specifically in the statute.
Delaware:	Deposited in the Special Law Enforcement Assistance Fund, to be used for law enforcement purposes.
District of Columbia:	Deposited in a fund for rehabilitation programs for addicts, public education, and drug abuse prevention.

Florida: Deposited into a special law enforcement fund established by the governing body of the municipality where the property was seized. If the seizing agency is a state agency other than the department of law enforcement, the proceeds will be deposited into the general reserve fund. If the seizing agency is the department of law enforcement, the proceeds are to be deposited into the forfeiture and investigative support trust fund.

Georgia: Distributed to the local political subdivision where the property was seized or, if a state agency, the county in which the property was forfeited. Upon an ex parte application by the district attorney, the court may order an award, not to exceed 25 percent of the net proceeds, to the person furnishing information on the seizure. No part of the proceeds may be used to pay the salary of a law enforcement officer.

Hawaii: Not addressed specifically in the statute.

Idaho: Deposited into the drug enforcement donation account.

Illinois: Deposited into the general fund of the county involved in the seizure.

Indiana: Deposited with the treasurer of state in the commonwealth fund.

Iowa: Not addressed specifically in the statute.

Kansas: Transferred to the unit of government having custody of the forfeited property or money.

Kentucky: Seizing agencies may retain up to \$50,000 or \$100,000 of monies seized, subject to restrictions specified in the statute. Such monies must be used solely for law enforcement purposes related to controlled substances. Excess proceeds are to be deposited into a state fund for drug and alcohol abuse education, prevention, and treatment.

Louisiana: Deposited in state's Drug Enforcement Seizure and Forfeiture Fund.

Maine: Distributed to state and/or local law enforcement agencies involved in the seizure for use solely for drug enforcement activities.

Maryland: Deposited into the general fund of the state or political subdivision that seized the property.

Massachusetts: Distributed equally between the office of the prosecutor and the law enforcement agency responsible for the forfeiture.

Michigan: Distributed to the entity having budgetary authority for the seizing agency, to be used for drug laws enforcement.

Minnesota: One-third to the state drug abuse authority for treatment programs, one-third to the prosecuting agency with jurisdiction over the criminal offenses, and one-third to the agency investigating the offense.

Mississippi: Fifty (50) percent of the proceeds to the state treasurer; fifty (50) percent to the law enforcement agencies participating in the seizure.

Missouri: Deposited into the state general fund.

Montana: Deposited into the governing entity of the seizing agency's drug forfeiture account; money from such an account is to be used in the enforcement of drug laws and education concerning drugs.

Nebraska: Deposited into the state school fund.

Nevada: Not addressed specifically in the statute.

New Hampshire: Ten (10) percent to the seizing agency; 10 percent (not exceeding \$200,000) to the state alcohol and drug abuse prevention fund; and the remainder (not exceeding \$200,000) to the drug forfeiture fund or the state general fund.

New Jersey: Distributed to the entity funding the prosecuting agency and shared with the investigative arresting agency "in proportion to its contribution to the arrest."

New Mexico: Distributed to general fund of state, county, or municipality of the seizing agency.

- 4 -

New York: To the general fund of the county where the seizures took place, except that proceeds from the sale of forfeited property in the cities of New York, Yonkers, Buffalo, and Rochester are to be deposited in the general funds of those cities.

North Carolina: Distributed to the school fund of the county where forfeitures took place.

North Dakota: Up to a limit of \$500,000 deposited in the assets forfeitures fund, administered by the state attorney general; remainder deposited in the appropriate state, county, or city general fund of the seizing agency.

Ohio: Deposited in the law enforcement trust fund of the political subdivision of the agency that made the seizure.

Oklahoma: Deposited in a revolving fund in the county where the property was seized, with one-third to the arresting offices; one-third to a fund that compensates the victim of the crimes for any losses incurred as a result of the acts for which property is forfeited; and one-third to a jail maintenance fund.

Oregon: Not addressed specifically in the statutes.

Pennsylvania: Not addressed specifically in the statute.

Rhode Island: The maximum amount of proceeds that may be retained by a seizing agency per forfeiture and per calendar year depends on the agency involved and the population of the agency's community, with amounts to be allocated as follows: state police - \$1,500 per forfeiture, \$20,000 per year; cities with a population less than or equal to 20,000 - \$500 per forfeiture; \$5,000 per year; cities greater than 20,000 - \$1,000 per forfeiture, \$7,500 per year. The balance of proceeds in each forfeiture goes to the state's general treasury.

South Carolina: Twenty (25) percent of proceeds to the law enforcement agency that initiated the seizure, except that no agency may receive more than \$100,000 per seizure; the remaining 75 percent to a special state account, a quarter of which is to be used for rehabilitation programs for prisoners. Where cash is forfeited, the first \$1,000 is retained by the seizing agency, and the remaining money is deposited into the special-state account.

- 5 -

South Dakota: Deposited into the state drug control fund.

Tennessee: Deposited into the account of the state, county, or municipal government whose agency instituted the seizure.

Texas: Deposited into a special fund administered by the seizing agency for criminal investigations, with no more than 10 percent to be spent on prevention of drug abuse or treatment of persons with drug-related problems.

Utah: Deposited into the state general fund.

Vermont: Not addressed specifically in the statute.

Virginia: Deposited into the state literary fund.

Washington: One-half to the general fund of the local or state government of the seizing agency; one-half to state public safety, and education account.

West Virginia: Not addressed specifically in the statute.

Wisconsin: At least 50 percent to the school fund, unless the forfeited property is money, in which case all the money is to be deposited in the school fund.

Wyoming: Not addressed specifically in the statute.

Based on information from "A Guide to State Controlled Substances Acts," February 1988

APPENDIX 8.—PROPERTY SEIZED IN SOUTHERN FLORIDA

①

Case #: 83-1652-CIV-JMK

Case Title: USA v. \$5,447,949
U.S. Currency

Property Seized: \$5,447,949 U.S. Currency

Date Seized: 07/19/83

Appraised Value: \$5,447,949

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. U.S. Customs Service is court
appointed substitute custodian.

2. Total Management Expenses:

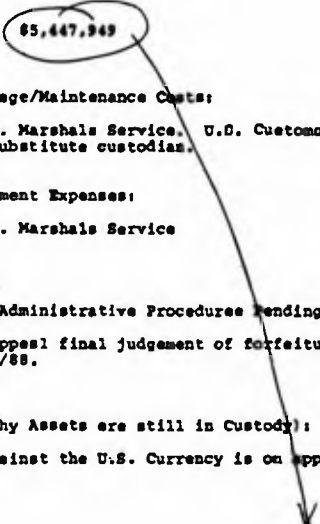
None to U.S. Marshals Service

3. Judicial or Administrative Procedures Pending:

Notice to appeal final judgement of forfeiture against U.S. Currency
filed 12/15/88.

4. Remarks - (Why Assets are still in Custody):

The case against the U.S. Currency is on appeal.



②

Case #: 84-0261-CIV-ALH

Case Title: USA v. 5800 Pine Tree Dr.

Property Seized: 5800 Pine Tree Dr.

Date Seized: 03/07/84

Appraised Value: \$126,500

1. Monthly Storage/Maintenance Costs:

The U.S. Marshals Service office has received 5 months rent totalling \$2,418.60 and have only paid out \$250.00 for an appraisal.

2. Total Management Expenses:

The U.S. Marshals Service had not paid out any management fees since the time of seizure.

3. Judicial or Administrative Procedures Pending:

An amended final judgement of forfeiture was entered on September 28, 1988, ordering the U.S. Marshal to sell the property. On October 25, a contract to purchase the property was accepted by the U.S. Marshals Service for \$139,000.

4. Remarks - (Why Assets are still in Custody):

X/ The title to this property is unmarketable. Counsel for the buyer has made numerous attempts to clear title, but will need assistance from the U.S. Attorney's Office to finalize this sale. Several attempts have been made to get the U.S. Attorney's Office involved with clearing title, but as of this date, the U.S. Marshals Office or the counsel for the buyer have not received a reply.

③

Case #: 84-1119-CIV-JZ

Case Title: USA v. 50% interest in
partnership

Property Seized: 50% interest in partnership, Abkey Number One (1) LTD.

Date Seized: 05/09/84

Appraised Value: \$20,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$9.00 filing fee

3. Judicial or Administrative Procedures Pending:

None - Forfeited on 04/30/85

4. Remarks - (Why Assets are still in Custody):

Awaiting clarification from U.S. Attorney's Office concerning what type of interest was seized. A 50% interest in a limited partnership is valued at \$20,000. A 50% interest in a general partnership is valued at \$500,000.



(4)

Case #: 4:84-2661-15

Case Title: USA v. 8422 S.W. 38 St.
Miami, Florida

Property Seized: Real Property

Date Seized: 11/07/84

Appraised Value: \$44,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$3,187.30 (Abstract, taxes, clean-up/board up service)

3. Judicial or Administrative Procedures Pending:

None. Forfeited on 04/18/85.

4. Remarks - (Why assets are still in custody):

The USMS has informed the U.S. Attorney's Office in the Southern District of Florida, as well as the District of South Carolina of existing title problems with this property. As of this date, the USMS has not received a reply.

(5)

Case #: 3:84-2761-6

Case Title: USA v. 10 Acres of Land
16501 S.W. 184 Street

Property Seized: Real Property

Date Seized: 12/19/84

Appraised Value: \$170,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee.

2. Total Management Expenses:

\$20,006.97 (Management fees, lawn maintenance, appraisal, taxes)

3. Judicial or Administrative Procedures Pending:

Mona - Forfeited on 08/19/86

4. Remarks - (Why assets are still in custody):

Pending Quiet Title action.
The title holder is an inactive foreign corporation and there are problems trying to properly serve them. Also the defendant's common law husband is deceased and his estate may have a claim on the property. Per memo from U.S. Attorney's Office dated 11/03/88, it will take a while to clear the title to this property.

(6)

Case #: 85-6608-CIV

Case Title: USA v. \$130,577.00

Property Seized: \$130,577.00

Date Seized: 12/27/85

Appraised Value: \$130,577.00

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This item had been closed since 1986. Apparently a flaw within the system allows this entry to keep showing on our list. Attempts have been made to remove this from the system. But as of this date the entry still remains. Tim Virtue of Headquarters had been notified and made aware of the situation.



(7)

Case #: 84-176-CR-MCR

Case Title: USA v. Raymond Vanyo

Property Seized: 28250 S.W. 172th Avenue, Homestead, Florida

Date Seized: 10/23/86

Appraised Value: \$110,000

1. Monthly Storage/Maintenance Costs:

\$2,213.13 has been spent on the appraisal, abstract and title, Title Insurance Corp., and the City of Homestead.

2. Total Management Expenses:

\$2,505.61 for property management. Total costs are \$4,718.74.

3. Judicial or Administrative Procedures Pending:

Judgement and Order of Forfeiture.

4. Remarks - (Why assets are still in custody):

The USMS has been managing this property since the date of seizure. To this date, this office has not received any information concerning the disposition of this case. USMS files do not reflect a Judgement and Order of Forfeiture signed by the U.S. District Court Judge. The U.S. Attorney's Office had been notified and will advise the USMS upon reviewing their files.



Case #: 86-167-CIV-RFS

Case Title: USA v. 13505 S.W. 98 Ct.
Miami, Florida

Property Seized: Real Property

Date Seized: 02/18/86

Appraised Value: \$275,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee

2. Total Management Expenses:

\$14,424.25

(Management fees, pool maintenance, electricity, appraisal)

3. Judicial or Administrative Procedures Pending:

None - Forfeited on 05/07/86

4. Remarks - (Why Assets are still in Custody):

7 | Pending Quiet Title action.
The actions alleged in the complaint occurred prior to the transfer of title to the current owner. The current owner did not receive notice of the action and the U.S. Attorney's Office is seeking to obtain a quit claim deed from her.

⑨

Case #: 86-0474-CIV-SPILLMAN

Case Title: USA v. \$170,410 U.S.
Currency

Property Seized: \$170,410 U.S. Currency

Date Seized: 03/19/86

Appraised Value: \$170,410 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None, Order of Final Judgment entered on 10/08/87.

4. Remarks - (Why assets are still in custody):

Not in custody. Turned over to U.S. Customs Service on 1/14/88.

?

(19)

Case #: 86-1055-CIV

Case Title: USA v. Richard Joseph

Property Seized: 712-714 N.W. 5th Avenue, Miami, Florida

Date Seized: 05/20/86

Appraised Value: \$115,000

1. Monthly Storage/Maintenance Costs:

\$27,207.35 has been spent as of 04/10/89, on storage expenses on the items contained within the property that were removed to a bonded facility. Also included are the appraisal fees, board up fees, and moving fees.

2. Total Management Expenses:

Total fees are \$27,207.35 as of 04/10/89.

3. Judicial or Administrative Procedures Pending:

No further criminal proceedings are pending towards this property. A final judgement of forfeiture was entered on August 24, 1987, and subsequently listed on the 30th day of September 1987, for sale.

4. Remarks - (Why Assets are still in Custody):

USMS is unable to dispose of this property because title companies will not accept the criminal forfeiture action that took place to clear title. This action has been brought to the attention of the U.S. Attorney's Office. Private counsel have on several occasions been unsuccessful in quieting title through the defendant.



(11)

Case #: GS-85-0038 (DEA)

Case Title: DEA Administrative Seizure
\$19,953 U.S. currency

Property Seized: \$19,953 U.S. currency

Date Seized: 06/03/86

Appraised Value: \$19,953

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why Assets are still in Custody):

Declaration of forfeiture concerning the above U.S. currency were dated 12/10/86, however not received in USMS office until 04/10/89. Currency has since been transferred to Asset Forfeiture Fund and the case has been closed.

(12)

Case #: 85-6004-CR-LCH

Case Title: USA v. 460 Sunset Dr.
Hallandale, FL

Property Seized: Real Property

Date Seized: 06/03/86

Appraised Value: \$240,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee, plus routine maintenance (lawn/pool service)

2. Total Management Expenses:

\$10,942.24

3. Judicial or Administrative Procedures Pending:

This seizure stems from the criminal conviction of defendant Raymond Michael Thompson. A Court Order for Interlocutory Sale was entered on 05/22/86. A contract was entered into for the sale of property in November 1986, but due to inability to provide a clear title the sale did not close.

4. Remarks - (Why Assets are still in Custody):

Pending Quiet Title Action.

The title and deed to the property are vested in the minor son of the defendant who is deceased. The mother of the deceased son has not been located and the U.S. Attorney's Office is trying to locate her in order to obtain a quit claim deed.

X

(13)

Case #: 89-0090-CIV-JWK

Case Title: USA v. \$254,852.04
U.S. Currency

Property Seized: \$254,852.04 U.S. Currency

Date Seized: Seized Administratively on 06/03/86
Seized Judicially on 02/07/89

Appraised Value: \$254,852.04 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Above money was seized pursuant to DEA Administrative Seizure
GS-85-0054 on 06/03/86. This case went Judicial on 01/12/89,
and is pending in U.S. District Court.

4. Remarks - (Why assets are still in custody):

Case in U.S. District Court is pending.

(14)

Case #: C86-1183A

Case Title: USA v. Real Property
3070-3090 N.W. 37th St.

Property Seized: 3070-3090 N.W. 37th St., Miami, Florida

Date Seized: 06/03/86

Appraised Value: \$177,000

1. Monthly Storage/Maintenance Costs:

\$22,709.93 has been spent on appraisals, security system, water and sewer expenses, telephone service, air conditioning, board up services, changing locks and pest control.

2. Total Management Expenses:

No management fees were expended as of 04/10/89.
A total of \$22,709.93 has been spent on this property as of 04/10/89.

3. Judicial or Administrative Procedures Pending:

No furthering proceedings need to be addressed.

4. Remarks - (Why Assets are still in Custody):

USMS has received a contractual offer to purchase this property on 02/16/89. We are now waiting to complete this transaction and clear title to proceed with closing. Prior to this contract the property had been listed since the Order of Forfeiture was entered on June 24, 1987.

(15)

Case #: 86-0995-CIV-RPS

Case Title: USA v. 65' Sailing Vessel

Property Seized: 65' Sailing Vessel

Date Seized: 06/19/86

Appraised Value: \$200,000

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. On 06/19/86, U.S. District Court appointed U.S. Customs Service substitute custodian.

2. Total Management Expenses:

None to U.S. Marshals Service

3. Judicial or Administrative Procedures Pending:

Final Judgement of Forfeiture in favor of U.S. granted on 02/18/87.
Defense filed an appeal to U.S. Circuit Court of Appeals on 02/27/87.

4. Remarks - (Why assets are still in custody):

Case is pending in U.S. Circuit Court of Appeals.

(16)

Case #: 86-1677-CIV-ROEVELER

Case Title: USA v. Bank Account No.
215-511-395

Property Seized: \$181,521.97 U.S. Currency

Date Seized: 08/15/86

Appraised Value: \$181,521.97 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$30.35 (Advertising fee)

3. Judicial or Administrative Procedures Pending:

None. Default Judgement entered on 12/30/86.

4. Remarks - (Why assets are still in custody):

(Default Judgement dated on 12/30/86 received by USMS on 04/11/89.
The money has since been transferred to the Asset Forfeiture Fund.)

①7

Case #: CRF-86-39

Case Title: USA v. Donald Kevin Groh
and William Thomas Sheehan

Property Seized: One 1984 Glastron Boat

Date Seized: 08/26/86

Appraised Value: \$8,000.00

1. Monthly Storage/Maintenance Costs:

Total Storage Costs: \$475.00

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

9 | Although Forfeiture Order is dated 7/25/86, questions have arisen concerning innocent third party ownership. USMS Southern District of Florida is awaiting word from the USMS Eastern District of California before the U.S. Marshals Service proceeds any further.

4. Remarks - (Why Assets are still in Custody):

USMS Eastern District of California will follow-up.

Case #: 01-85-2008

Case Title: USA v. 1985, CX500
Turbo Motorcycle
DEA Admin. Service

Property Seized: 1985 Honda, CX500 Turbo Motorcycle

Date Seized: 02/01/88

Appraised Value: \$7,000.00 on 03/24/88

1. Monthly Storage/Maintenance Coets:

None

2. Total Management Expensee:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

The USMS had received the motorcycle from DEA on 2/25/88. This motorcycle had been forfeited on March 29, 1988. The State Department became involved when the Haitian Government expressed an interest in using the motorcycle for official use. To this date, the USMS has not received any word whether or not the State Department had plans to proceed with the transaction. The State Department in Port-Au-Prince was contacted 4/14/89 to verify this request. Still waiting word from that office.

(A)

Case #: 486-70 S/GA

Case Title: USA v. James Radford

Property Seized: 1141 Coconut Creek Blvd., Coconut Creek, Florida

Date Seized: 09/19/86, Pursuant to an Order dated 04/23/86.

Appraised Value: \$99,600

1. Monthly Storage/Maintenance Costs:

See Below.

2. Total Management Expenses:

\$2,995.17 - this total includes management fees, lawn maintenance, water department, title insurance, appraisal, Florida Power & Light, and publication.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This property was closed on 11/04/88, and had not been removed from the USMS inventory list. Proceeds from the sale are waiting to be dispersed.
d44u/SSTO

X
2

Case #: GS-79-0012

Case Title: DEA Administrative Service

Property Seized: \$5,000 U.S. Currency

Date Seized: 10/21/86

Appraised Value: \$5,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

DEA Administrative proceedings still in progress.

4. Remarks - (Why assets are still in custody):

Awaiting further instructions from DEA.

(21)

Case #: G5-86-0049

Case Title: DEA Administrative Service

Property Seized: \$2,608 U.S. Currency

Date Seized: 10/21/86

Appraised Value: \$2,608

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Per DEA this seizure went judicial in July 1987.

4. Remarks - (Why assets are still in custody):

Awaiting further administrative/judicial proceedings.

(72)

Case #: 86-6899-CIV-ARONOVITZ

Case Title: USA v. 2 Parcels of
Real Property
2835 Hollywood Blvd.

Property Seized: 2835 Hollywood Blvd., Hollywood, Florida

Date Seized: 11/24/86

Appraised Value: \$696,000 on January 15, 1987

1. Monthly Storage/Maintenance Costs:

\$13,539.95 is a total for management fees, appraisal fees, roof repair, and misc. expenses for building upkeep.

2. Total Management Expenses:

See Above.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why Assets are still in Custody):

On 4/5/89 Equitable Sharing request for transferring this property to the Hollywood Police Department was approved by NASAF Headquarters.

(B3)

Case #: 87-6813

Case Title: USA v. 1979 Porsche 935

Property Seized: 1979 Porsche 935

Date Seized: 01/06/87

Appraised Value: \$60,000.00

1. Monthly Storage/Maintenance Costs:

\$1,060.71 - Appraisal of vehicle

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Vehicle sold at Public Auction on 03/03/89, for \$210,000.00.
Proceeds from auction received on 03/23/89 and deposited in the
Asset Forfeiture Fund.

(24)

Case #: 86-8692-CIV-PAINE

Case Title: USA v. \$100,000 U.S. Currency

Property Seized: \$100,000 U.S. Currency

Date Seized: 02/09/87

Appraised Value: \$100,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Summary Judgment in favor of U.S. granted on 11/06/87.

4. Remarks - (Why assets are still in custody):

Summary Judgment granted on 11/06/87; however, it was not received in USMS office until 04/11/89. Money has since been transferred to the Asset Forfeiture Fund.

(25)

Case #: 87-0210-CIV-ARONOVITZ

Case Title: USA v. Bella Vista Plaza
Condo WarehouseProperty Seized: Unit 1501A Bella Vista Plaza Warehouse
1631 S. 38 Pl., Hialeah, Florida, Bldg. 15Date Seized: 02/18/87
Forfeited 5/14/87

Appraised Value: \$62,500

1. Monthly Storage/Maintenance Costs:

2. Total Management Expenses:

\$3,703.95 is a total of expenses of this condo warehouse as of 04/11/89. That total includes Condo Association fees, appraisal, locksmiths. No management fees were paid, just fees as stated above.

3. Judicial or Administrative Procedures Pending:

Awaiting an amended final judgement of forfeiture.

4. Remarks - (Why assets are still in custody):

The USMS is unable to go any further on closing this case. A contract was accepted on 12/23/88, but the title to this property is clouded. The U.S. Attorney's Office still needs to file a proof of service and an amended final judgement to proceed further. The attorney for the buyer has been unsuccessful in obtaining the assistance from the U.S. Attorney's Office to clear title for the closing.

(26)

Case #: G8-74-0031

Case Title: DEA Administrative Seizure

Property Seized: 200 pesos

Date Seized: 04/29/87

Appraised Value: 0.77

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Abandonment from DEA Asset Forfeiture.

(27)

Case #: 06-85-0001

Case Title: DEA Administrative Service

Property Seized: \$5,204.04 U.S. Currency

Date Seized: 04/29/87

Appraised Value: \$5,204.04

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

DEA Administrative proceedings still in progress.

4. Remarks - (Why assets are still in custody):

Awaiting further instructions from DEA.

28

Case #: C5-86-Z002

Case Title: DEA Administrative Seizure

Property Seized: \$59,752.49 U.S. Currency

Date Seized: 05/19/87

Appraised Value: \$59,752.49

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Forfeiture from DEA.

(24)

Case #: Y-87-1203

Case Title: USA v. One 1983 Toyota
Land Cruiser

Property Seized: One Toyota Land Cruiser

Date Seized: 05/27/87

Appraised Value: \$12,000

1. Monthly Storage/Maintenance Costs:

Total Storage Costs: \$690.00

Total Maintenance Costs: \$104.00

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Order of Forfeiture 1/20/88

4. Remarks - (Why Assets are still in Custody):

Released for Official Use in the USMS Southern District of
Florida on 1/27/88.

(3)

Case #: G1-83-0086

Case Title: DEA Administrative Service

Property Seized: \$1,400 U.S. Currency

Date Seized: 07/14/87

Appraised Value: \$1,400

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Awaiting Declaration of Forfeiture from DEA.

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Forfeiture.

20

Case #: 87-1136-CIV-WMH

Case Title: USA v. Isaac Hicke

Property Seized: 6941-43 N.W. 6th Ct., Miami, Florida

Date Seized: 07/07/87

Appraised Value: \$21,000 - 12/10/87

1. Monthly Storage/Maintenance Costs:

\$250.00 had been spent to date on an appraisal.

2. Total Management Expenses:

None to date.

3. Judicial or Administrative Procedures Pending:

Administrative actions known to USMS.

4. Remarks - (Why assets are still in custody):

1 | This property was forfeited to the U.S. on November 20, 1986. The sale of the property fell through after the attorney for the buyer found that the forfeiture proceedings by the U.S. Attorney's Office did not follow a memorandum issued on September 24, 1987, and therefore rendering the title clouded. The U.S. Attorney's Office had been advised of the situation and until this date, the USMS had not received a reply.

(32)

Case #: 3460-87-008

Case Title: FBI Administrative Service

Property Seized: 33' Egg Harbor Vessel

Date Seized: 12/07/87

Appraised Value: \$25,000

1. Monthly Storage/Maintenance Costs:

\$230.68 per month for dockage and routine maintenance.

2. Total Management Expenses:

\$3,641.12

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture received 07/28/87.
Vessel sold by G.S.A. on 03/06/89 for \$21,505.20.

4. Remarks - (Why assets are still in custody):

No longer in custody.

(33)

Case #: 87-1039-CIV-T-138 M/FL Case Title: USA v. One 32-Acre Fern

Property Seized: 256 Terpon Street, Tavernier, Florida

Date Seized: 09/16/87

Appraised Value: \$142,000, March 8, 1988

1. Monthly Storage/Maintenance Costs:

\$566.91 had been spent on locksmiths, appraisals and maintenance.
\$2,844.43 were received from rents collected.

2. Total Management Expenses:

\$750.00 expended on management fees.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

At this time a contract has been accepted and the USMS and buyer
are awaiting to set a closing date. The title has been cleared
by copy of Quiet Title action.

(74)

Case #: 87-2013-CIV-ZND

Case Title: USA v. 1986 Suzuki
Convertible Jeep

Property Seized: 1986 Suzuki Samurai JX, VIN # JS8JC51CXG4125481

Date Seized: 12/08/87

Appraised Value: \$6,500.00

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage.

2. Total Management Expenses:

To date (04/11/89) \$1,347.50

3. Judicial or Administrative Procedures Pending:

None. Summary Judgement of Forfeiture entered and granted to U.S.
dated 02/23/89.

4. Remarks - (Why assets are still in custody):

Judgement rendered 02/23/89; received in USMS office 04/11/89.
Vehicle will be turned over to DEA for official use as soon as
an official date is rendered.

75

Case #: G1-85-0284

Case Title: USA v. Assorted Coins

Property Seized: Assorted Coins (A.K.A.) Coin Collection

Date Seized: 12/15/87

Appraised Value: \$34,568.00

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$539.00 (Shipping)

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture dated 10/06/87.

4. Remarks - (Why assets are still in custody):

Shipped to NASAF, Chicago. Items will be sold at auction on April 16, 17, 18, 1989.

(76)

Case #: G1-86-0054

Case Title: DEA Administrative Service

Property Seized: 1983 Toyota Corolla

Date Seized: 12/21/87

Appraised Value: \$5,625

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage plus \$75 fee for moving vehicle.

2. Total Management Expenses:

To date (04/11/89) \$1,458.25

3. Judicial or Administrative Procedures Pending:

DEA Administrative Forfeiture Proceedings are still pending.

4. Remarks - (Why assets are still in custody):

Case is pending.

(37)

Case #: G5-87-0021

Case Title: DEA Administrative Service.

Property Seized: 1981 Porsche

Date Seized: 01/05/88

Appraised Value: \$20,000

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage fee plus \$75 towing fee.

2. Total Management Expenses:

As of 04/10/89 \$1,359.25.

3. Judicial or Administrative Procedures Pending:

On 10/28/88, the defendant agreed to forfeit the vehicle to the government. On 11/05/88, the DEA Asset Forfeiture Office was advised of same and advised to forward the Declaration of Forfeiture. As of 04/10/89, it has not been received in the USMS office.

4. Remarks - (Why assets are still in custody):

See Above.

38

Case #: 3460-87-006

Case Title: FBI Administrative Seizure

Property Seized: 1979 BMW

Date Seized: 01/14/88

Appraised Value: \$5,250

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage plus \$124 towing fees.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture dated 08/17/87.

4. Remarks - (Why assets are still in custody):

No longer in custody. Turned over to Salt Lake City P.D. on 10/11/87 per Equitable Sharing.

(79)

Case #: CJ-86-2002

Case Title: USA v. GTE Mobile Net
Telephone and Charger

Property Seized: GTE Mobile net telephone and charger

Date Seized: 01/19/88

Appraised Value: \$3,800.00 Appraisal - 1/19/88
\$1,500.00 Appraisal - 1/20/88

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None, Declaration of Forfeiture 02/13/87.

4. Remarks - (Why assets are still in custody):

Placed in Official Use by USMS Southern District of Florida on
01/20/88.

(40)

Case #: GS-88-0014

Case Title: DEA Administrative Seizure

Property Seized: Gold chain

Date Seized: 02/08/88

Appraised Value: \$2,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture dated 06/16/88.

4. Remarks - (Why assets are still in custody):

This gold chain as well as the other jewelry in the same seizure was shipped to MASAF, Chicago. The jewelry will be sold at auction on April 16, 17, 18, 1989.

(41)

Case #: G1-87-0364
FBI Administrative Case No.

Case Title: USA v. 1966 Cessna Twin
Engine Aircraft

Property Seized: 1966 Cessna Twin Engine Aircraft

Date Seized: 03/29/88 - Date forfeited 7/19/88

Appraised Value: \$40,000.00

1. Monthly Storage/Maintenance Costs:

\$1,345 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Currently, this aircraft is waiting to be sold. No official auction date had been set as per Bob Lang, (717) 944-1787 of Stambough's Air Service. This aircraft was forfeited on 7/19/88, and transferred to Stambough's Air Service for auction.

(42)

Case #: G6-87-0011
DEA Administrative

Case Title: USA v. 1970 Cessna 172-R

Property Seized: 1970 Cessna 172-R

Date Seized: 03/29/88 - Forfeited 6/16/88

Appraised Value: \$9,000

1. Monthly Storage/Maintenance Costs:

\$1,327 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Currently, this aircraft is waiting to be sold. No official auction date had been set as per Bob Lang, (717) 944-1787 of Stambough's Air Service. This aircraft was forfeited on 6/24/88, and transferred to Stambough's Air Service for auction.

(43)

Case #: G1-85-0284
DEA Administrative Case No.

Case Title: USA v. 1981 Honda CB
400T Hawk M/C

Property Seized: 1981 Honda CB 400T Hawk Motorcycle

Date Seized: 04/25/88

Appraised Value: \$300,000 on 4/25/88

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This motorcycle had been forfeited to the U.S. on 01/16/86. The USMS had received the motorcycle from DEA on 4/25/88. The State Department became involved when the Haitian Government expressed an interest in using the motorcycle for official use. To this date, the USMS has not received any word whether or not the State Department had plans to proceed with the transaction.

(74)

CASE #: 61-86-0463 (DEA)

CASE TITLE: DEA ADMINISTRATIVE
SEIZURE

PROPERTY SEIZED: 1 CERAMIC VASE & ASSORTED JEWELRY

DATE SEIZED: 06/28/89

APPRAISED VALUE: \$3,570.00

1. MONTHLY STORAGE/MAINTENANCE COSTS:

NONE

2. TOTAL MANAGEMENT EXPENSES:

NONE

3. JUDICIAL OR ADMINISTRATIVE PROCEDURES PENDING:

ADMINISTRATIVELY FORFEITED BY DEA ON 03/03/87.

4. REMARKS (WHY ASSETS ARE STILL IN CUSTODY):

SHIPPED TO NASAF, CHICAGO. ITEMS WILL BE SOLD AT AUCTION ON
APRIL 16, 17, 18 1989.

(45)

Case #: GFG1-85-8001
DEA Administrative

Case Title: USA v. 1964 Cessna 172-F

Property Seized: 1964 Cessna 172-F

Date Seized: 08/18/88 - Forfeited 7/23/86

Appraised Value: \$5,000

1. Monthly Storage/Maintenance Costs:

\$130.00 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This aircraft is no longer in the custody of the USMS. Pursuant to a sale on 02/28/89, this aircraft was sold for \$3,333.33. The funds from the sale have since been deposited in the Asset Forfeiture Fund.

APPENDIX 9.—ASSETS ON HAND IN SOUTHERN DISTRICT OF FLORIDA (COMPILED BY U.S. MARSHALS SERVICE)

ASSETS ON HAND IN SOUTHERN DISTRICT OF FLORIDA (Compiled by U. S. Marshals Service)

Case #: 83-1652-CIV-JWK

Case Title: USA v. 5,447,949 U.S.
Currency et.al.

Property Seized: Various weapons, ammunition and misc. items.

Date Seized: 07/19/83

Appraised Value: \$13,000

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. U.S. Customs Service was appointed sub-custodian by U.S. District Court on 7/19/83.

2. Total Management Expenses:

None to U.S. Marshals Service.

3. Judicial or Administrative Procedures Pending:

Summary Final Judgment of Forfeiture granted on 11/07/88.
Defense filed appeal on 12/05/88 to U.S. Circuit Court of Appeals.

4. Remarks - (Why assets are still in custody):

Case is on appeal to U.S. Circuit Court of Appeals.

Case #: 83-1652-CIV-JMK

Case Title: USA v. \$5,447,949
U.S. Currency

Property Seized: \$5,447,949 U.S. Currency

Date Seized: 07/19/83

Appraised Value: \$5,447,949

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. U.S. Customs Service is court appointed substitute custodian.

2. Total Management Expenses:

None to U.S. Marshals Service

3. Judicial or Administrative Procedures Pending:

Notice to appeal final judgement of forfeiture against U.S. Currency filed 12/15/88.

4. Remarks - (Why Assets are still in Custody):

The case against the U.S. Currency is on appeal.

Case #: 84-0261-CIV-ALH

Case Title: USA v. 5800 Pine Tree Dr.

Property Seized: 5800 Pine Tree Dr.

Date Seized: 03/07/84

Appraised Value: \$126,500

1. Monthly Storage/Maintenance Costs:

The U.S. Marshals Service office has received 5 months rent totalling \$2,418.60 and have only paid out \$250.00 for an appraisal.

2. Total Management Expenses:

The U.S. Marshals Service had not paid out any management fees since the time of seizure.

3. Judicial or Administrative Procedures Pending:

An amended final judgement of forfeiture was entered on September 28, 1988, ordering the U.S. Marshal to sell the property. On October 25, a contract to purchase the property was accepted by the U.S. Marshals Service for \$139,000.

4. Remarks - (Why Assets are still in Custody):

The title to this property is unmarketable. Counsel for the buyer has made numerous attempts to clear title, but will need assistance from the U.S. Attorney's Office to finalize this sale. Several attempts have been made to get the U.S. Attorney's Office involved with clearing title, but as of this date, the U.S. Marshals Office or the counsel for the buyer have not received a reply.

Case #: 84-0259-CIV-MCR

Case Title: USA v. Aircraft

Property Seized: 1976 Aerospatiale Helicopter

Date Seized: 04/10/84

Appraised Value: \$225,000

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. The FBI has been appointed substitute custodian by U.S. District Court.

2. Total Management Expenses:

None to U.S. Marshals Service

3. Judicial or Administrative Procedures Pending:

Judicial case is still pending. A protective order was entered by Judge Roettger on 3/8/85, staying any further proceedings in this case until final resolution of criminal case against claimant. The criminal case against claimant is on appeal.

4. Remarks - (Why Assets are still in Custody):

Judicial case is pending.

Case #: 84-1119-CIV-JK

Case Title: USA v. 50% interest in
partnership

Property Seized: 50% interest in partnership, Abkey Number One (1) LTD.

Date Seized: 05/09/84

Appraised Value: \$20,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$9.00 filing fee

3. Judicial or Administrative Procedures Pending:

None - Forfeited on 04/30/85

4. Remarks - (Why Assets are still in Custody):

Awaiting clarification from U.S. Attorney's Office concerning what type of interest was seized. A 50% interest in a limited partnership is valued at \$20,000. A 50% interest in a general partnership is valued at \$500,000.

Case #: 4:84-2661-15

Case Title: USA v. 8422 S.W. 38 S
Miami, Florida

Property Seized: Real Property

Date Seized: 11/07/84

Appraised Value: \$44,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$3,187.30 (Abstract, taxes, clean-up/board up service)

3. Judicial or Administrative Procedures Pending:

None. Forfeited on 04/18/85.

4. Remarks - (Why assets are still in custody):

The USMS has informed the U.S. Attorney's Office in the Southern District of Florida, as well as the District of South Carolina of existing title problems with this property. As of this date, the USMS has not received a reply.

Case #: 3:84-2761-6

Case Title: USA v. 10 Acres of Land
16501 S.W. 184 Street

Property Seized: Real Property

Date Seized: 12/19/84

Appraised Value: \$170,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee.

2. Total Management Expenses:

\$20,006.97 (Management fees, lawn maintenance, appraisal, taxes)

3. Judicial or Administrative Procedures Pending:

None - Forfeited on 08/19/86

4. Remarks - (Why assets are still in custody):

Pending Quiet Title action.
The title holder is an inactive foreign corporation and there are problems trying to properly serve them. Also the defendant's common law husband is deceased and his estate may have a claim on the property. Per memo from U.S. Attorney's Office dated 11/03/88, it will take a while to clear the title to this property.

Case #: 3:85-584-6 D/SC

Case Title: USA v. Estate of Irana
Acklay, Deceased

Property Seized: 12.46 acres of land; 22800

Date Seized: 03/28/85

Appraised Value: \$331,333.33

1. Monthly Storage/Maintenance Costs:

\$8,916.29 have been spent on misc. expenses, i.e., advertisement, security system, auction co. and board up services. \$233,680.08 was paid to Metmor Financial for lien satisfaction.

2. Total Management Expenses:

As of this date 04/10/89, a total of \$5,460.89 have been spent on management costs. A total of \$248,057.26 has been spent as of 04/10/89.

3. Judicial or Administrative Procedures Pending:

A final judgement quieting title was entered on 01/10/89. No other actions judicially or administratively are pending at this time.

4. Remarks - (Why Assets are still in Custody):

This property is awaiting closing. All parties have been notified and a date for closing is still pending.

Case #: 3:85-585-6 D/SC

Case Title: USA v. Estate of Irene
Acklay, Deceased

Property Seized: 18855 S.W. 197th Avenue, Miami, Florida

Date Seized: 03/28/85

Appraised Value: \$130,000 on July 12, 1985

1. Monthly Storage/Maintenance Costs:

The USMS has received since 12/17/86 a total of \$2,750 in rent from the buyers. The USMS has allowed the buyers to stay in the residence until this sale is completed.

2. Total Management Expenses:

\$1,022 have been for management fees. \$656 for fees to Ticor Title Insurance, and Law Offices of Brenner and Dejustag, totalling \$1,678.

3. Judicial or Administrative Procedures Pending:

A final judgement quieting title was entered on 01/10/89. No other actions judicially or administratively are pending at this time.

4. Remarks - (Why Assets are still in Custody):

Since the judgement quieting title was entered, other problems concerning the title have surfaced, re: mineral rights, and ingress, egress rights must be addressed along with the notification of a fugitive recising the property. Once these situations have been addressed, the closing of this transaction will be completed.

Case #: 85-6608-CIV

Case Title: USA v. \$130,577.00

Property Seized: \$130,577.00

Date Seized: 12/27/85

Appraised Value: \$130,577.00

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This item had been closed since 1986. Apparently a flaw within the system allows this entry to keep showing on our list. Attempts have been made to remove this from the system. But as of this date the entry still remains. Tim Virtue of Headquarters had been notified and made aware of the situation.

Case #: 84-176-CR-MCR

Case Title: USA v. Raymond Vanyo

Property Seized: 28250 S.W. 172th Avenue, Homestead, Florida

Date Seized: 10/23/86

Appraised Value: \$110,000

1. Monthly Storage/Maintenance Costs:

\$2,213.13 has been spent on the appraisal, abstract and title, Title Insurance Corp., and the City of Homestead.

2. Total Management Expenses:

\$2,505.61 for property management. Total costs are \$4,718.74.

3. Judicial or Administrative Procedures Pending:

Judgement and Order of Forfeiture.

4. Remarks - (Why assets are still in custody):

The USMS has been managing this property since the date of seizure. To this date, this office has not received any information concerning the disposition of this case. USMS files do not reflect a Judgement and Order of Forfeiture signed by the U.S. District Court Judge. The U.S. Attorney's Office had been notified and will advise the USMS upon reviewing their files.

Case #: 86-167-CIV-EPS

Case Title: USA v. 13505 S.W. 98 Ct.
Miami, Florida

Property Seized: Real Property

Date Seized: 02/18/86

Appraised Value: \$275,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee

2. Total Management Expenses:

\$14,424.25

(Management fees, pool maintenance, electricity, appraisal)

3. Judicial or Administrative Procedures Pending:

None - Forfeited on 05/07/86

4. Remarks - (Why Assets are still in Custody):

Pending Quiet Title action.

The actions alleged in the complaint occurred prior to the transfer of title to the current owner. The current owner did not receive notice of the action and the U.S. Attorney's Office is seeking to obtain a quit claim deed from her.

Case #: 86-0474-CIV-SPILLMAN

Case Title: USA v. \$170,410 U.S.
Currency

Property Seized: \$170,410 U.S. Currency

Date Seized: 03/19/86

Appraised Value: \$170,410 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Order of Final Judgement entered on 10/08/87.

4. Remarks - (Why assets are still in custody):

Not in custody. Turned over to U.S. Customs Service on 1/14/88.

Case #: 86-0351-CIV-SPELLMAN

Case Title: USA v. 1980 Bertram Yacht

Property Seized: 58' Bertram Yacht

Date Seized: 04/02/86

Appraised Value: \$500,000

1. Monthly Storage/Maintenance Costs:

From 04/86 thru 9/87 Dockage fee \$560 a month
From 09/87 to Present Dockage fee \$400 a month

2. Total Management Expenses:

(\$18,061) The vessel has required repairs, routine maintenance
and termite exterminating.

3. Judicial or Administrative Procedures Pending:

Judgement entered on 06/19/87 in favor of claimant, however U.S.
Government filed an appeal to Circuit Court of Appeals and it is
currently pending.

4. Remarks - (Why Assets are still in Custody):

Appeal filed, case is pending.

Case #: 85-0255

Case Title: USA v. M/V Mistress

Property Seized: 38' Vessel

Date Seized: 04/07/86

Appraised Value: \$40,000

1. Monthly Storage/Maintenance Costs:
\$320.94 per month maintenance and storage
2. Total Management Expenses:
\$11,729.81 maintenance and upkeep costs.
3. Judicial or Administrative Procedures Pending:
Case is still pending in U.S. District Court.
4. Remarks - (Why assets are still in custody):
Case is still pending.

Case #: 86-1055-CIV

Case Title: USA v. Richard Joseph

Property Seized: 712-714 N.W. 5th Avenue, Miami, Florida

Date Seized: 05/20/86

Appraised Value: \$115,000

1. Monthly Storage/Maintenance Costs:

\$27,207.35 has been spent as of 04/10/89, on storage expenses on the items contained within the property that were removed to a bonded facility. Also included are the appraisal fees, board up fees, and moving fees.

2. Total Management Expenses:

Total fees are \$27,207.35 as of 04/10/89.

3. Judicial or Administrative Procedures Pending:

No further criminal proceedings are pending towards this property. A final judgement of forfeiture was entered on August 24, 1987, and subsequently listed on the 30th day of September 1987, for sale.

4. Remarks - (Why Assets are still in Custody):

USMS is unable to dispose of this property because title companies will not accept the criminal forfeiture action that took place to clear title. This action has been brought to the attention of the U.S. Attorney's Office. Private counsel have on several occasions been unsuccessful in quieting title through the defendant.

Case #: C86-1183A N/GA

Case Title: USA v. Sherlock Holmes
Warehouse

Property Seized: Contents

Date Seized: 06/03/86

Appraised Value: \$87,937.00

1. Monthly Storage/Maintenance Costs:

The warehouse was in control of the United States Marshals Service throughout period of seizure.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

The contents of the warehouse were sold at an auction on October 23, 24, and 27. USMS received \$19,634.56 from that sale.

The reason this has not been taken off the inventory list is that the contents are listed and filed with the real property. USMS has received a contract on the real property and once that transaction is closed, the contents will be taken off the inventory list along with the real property.

Case #: 86-0839-CIV-HOEVELER

Case Title: USA v. One Blk.
Palm Cockatoo

Property Seized: One Blk. Palm Cockatoo

Date Seized: 05/30/86

Appraised Value: \$8,000

1. Monthly Storage/Maintenance Costs:

None to USMS. U.S. District Court appointed U.S. Fish and Wildlife Service substitute custodian.

2. Total Management Expenses:

\$26.30 (advertising fee)

3. Judicial or Administrative Procedures Pending:

Judgement entered in favor of U.S. on 06/18/87.
Defense has filed an appeal.

4. Remarks - (Why Assets are still in Custody):

Case is pending. Appeal has been filed by Defense.

Case #: GS-85-0038 (DEA)

Case Title: DEA Administrative Seizure
\$19,953 U.S. currency

Property Seized: \$19,953 U.S. currency

Date Seized: 06/03/86

Appraised Value: \$19,953

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why Assets are still in Custody):

Declaration of forfeitures concerning the above U.S. currency were dated 12/10/86, however not received in USMS office until 04/10/89. Currency has since been transferred to Asset Forfeiture Fund and the case has been closed.

Case #: 85-6004-CR-LCN

Case Title: USA v. 460 Sunset Dr.
Hallandale, FL

Property Seized: Real Property

Date Seized: 06/03/86

Appraised Value: \$240,000

1. Monthly Storage/Maintenance Costs:

\$75 a month management fee, plus routine maintenance (lawn/pool service)

2. Total Management Expenses:

\$10,942.24

3. Judicial or Administrative Procedures Pending:

This seizure stems from the criminal conviction of defendant Raymond Michael Thompson. A Court Order for Interlocutory Sale was entered on 05/22/86. A contract was entered into for the sale of property in November 1986, but due to inability to provide a clear title the sale did not close.

4. Remarks - (Why Assets are still in Custody):

Pending Quiet Title Action.
The title and deed to the property are vested in the minor son of the defendant who is deceased. The mother of the deceased son has not been located and the U.S. Attorney's Office is trying to locate her in order to obtain a quit claim deed.

Case #: 89-0090-CIV-JMK

Case Title: USA v. \$254,852.04
U.S. Currency

Property Seized: \$254,852.04 U.S. Currency

Date Seized: Seized Administratively on 06/03/86
Seized Judicially on 02/07/89

Appraised Value: \$254,852.04 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Above money was seized pursuant to DEA Administrative Seizure
85-85-0054 on 06/03/86. This case went Judicial on 01/12/89,
and is pending in U.S. District Court.

4. Remarks - (Why assets are still in custody):

Case in U.S. District Court is pending.

Case #: C86-1183A

Case Title: USA v. Real Property
3070-3090 N.W. 57 St.

Property Seized: 3070-3090 N.W. 57th St., Miami, Florida

Date Seized: 06/03/86

Appraised Value: \$177,000

1. Monthly Storage/Maintenance Costs:

\$22,709.93 has been spent on appraisals, security system, water and sewer expenses, telephone service, air conditioning, board up services, changing locks and pest control.

2. Total Management Expenses:

No management fees were expended as of 04/10/89.
A total of \$22,709.93 has been spent on this property as of 04/10/89.

3. Judicial or Administrative Procedures Pending:

No furthering proceedings need to be addressed.

4. Remarks - (Why Assets are still in Custody):

USMS has received a contractual offer to purchase this property on 02/16/89. We are now awaiting to complete this transaction and clear title to proceed with closing. Prior to this contract the property had been listed since the Order of Forfeiture was entered on June 24, 1987.

Case #: 84-853-CR

Case Title: USA v. Gerardo Jorge Gueva

Property Seized: 7560 S.W. 67th Miami, Florida

Date Seized: 06/09/86

Appraised Value: \$200,000, September 3rd, 1987

1. Monthly Storage/Maintenance Costs:

\$4,215.12 - This amount includes pool maintenance and repairs, cleaning interior/exterior, lawn service, perimeter fence repairs.

2. Total Management Expenses:

\$4,375 including management and misc. repairs.
A total of \$8,590.12 has been spent to date maintaining this property.

3. Judicial or Administrative Procedures Pending:

On March 22, 1989, an Amended Order and Final Judgement of Forfeiture was filed and had not been signed by the judge as far as our files reflect.

4. Remarks - (Why assets are still in custody):

This office is awaiting an Amended Order and Final Judgement of Forfeiture which as of March 22, 1989, has been sent in to be filed. Prior to this Amended Order, the publication of this property was in question between the USMS and the U.S. Attorney's Office. That situation had been resolved and subsequent to that a contract had been received. At this time, questions concerning title need to be addressed by the U.S. Attorney's Office and the attorney for the buyer in order to proceed further.

Case #: 86-0995-CIV-EPS

Case Title: USA v. 65' Sealing Vessel

Property Seized: 65' Sealing Vessel

Date Seized: 06/19/86

Appraised Value: \$200,000

1. Monthly Storage/Maintenance Costs:

None to U.S. Marshals Service. On 06/19/86, U.S. District Court appointed U.S. Customs Service substitute custodian.

2. Total Management Expenses:

None to U.S. Marshals Service

3. Judicial or Administrative Procedures Pending:

Final Judgment of Forfeiture in favor of U.S. granted on 02/18/87.
Defense filed an appeal to U.S. Circuit Court of Appeals on 02/27/87.

4. Remarks - (Why assets are still in custody):

Case is pending in U.S. Circuit Court of Appeals.

Case #: 86-1677-CIV-HOEVELER

Case Title: USA v. Bank Account No.
215-511-395

Property Seized: \$181,521.97 U.S. Currency

Date Seized: 08/15/86

Appraised Value: \$181,521.97 U.S. Currency

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

\$30.35 (Advertising fee)

3. Judicial or Administrative Procedures Pending:

None. Default Judgement entered on 12/30/86.

4. Remarks - (Why assets are still in custody):

Default Judgement dated on 12/30/86 received by USMS on 04/11/89.
The money has since been transferred to the Asset Forfeiture Fund.

Case #: CRF-86-39

Case Title: USA v. Donald Kevin Groh
and William Thomas Sheeha:

Property Seized: One 1984 Glestron Boat

Date Seized: 08/26/86

Appraised Value: \$8,000.00

1. Monthly Storage/Maintenance Costs:

Total Storage Costs: \$475.00

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Although Forfeiture Order is dated 7/25/86, questions have arisen concerning innocent third party ownership. USMS Southern District of Florida is awaiting word from the USMS Eastern District of California before the U.S. Marshals Service proceeds any further.

4. Remarks - (Why Assets are still in Custody):

USMS Eastern District of California will follow-up.

Case #: G1-85-Z008

Case Title: USA v. 1985, CX500
Turbo Motorcycle
DEA Admin. Service

Property Seized: 1985 Honda, CX500 Turbo Motorcycle

Date Seized: 02/01/88

Appraised Value: \$7,000.00 on 03/24/88

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

The USMS had received the motorcycle from DEA on 2/25/88. This motorcycle had been forfeited on March 29, 1988. The State Department became involved when the Haitian Government expressed an interest in using the motorcycle for official use. To this date, the USMS has not received any word whether or not the State Department had plans to proceed with the transaction. The State Department in Port-Au-Prince was contacted 4/14/88 to verify this request. Still waiting word from that office.

Case #: 484-70 S/GA

Case Title: USA v. James Radford

Property Seized: 1141 Coconut Creek Blvd., Coconut Creek, Florida

Date Seized: 09/19/86, Pursuant to an Order dated 04/23/86.

Appraised Value: \$99,600

1. Monthly Storage/Maintenance Costs:

See Below.

2. Total Management Expenses:

\$2,995.17 - this total includes management fees, lawn maintenance, water department, title insurance, appraisal, Florida Power & Light, and publication.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This property was closed on 11/04/88, and had not been removed from the USMS inventory list. Proceeds from the sale are waiting to be dispersed.

dab/SEC

Case #: GS-79-0012

Case Title: DEA Administrative Service

Property Seized: \$5,000 U.S. Currency

Date Seized: 10/21/86

Appraised Value: \$5,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

DEA Administrative proceedings still in progress.

4. Remarks - (Why assets are still in custody):

Awaiting further instructions from DEA.

Case #: G5-86-0049

Case Title: DEA Administrative Service

Property Seized: \$2,608 U.S. Currency

Date Seized: 10/21/86

Appraised Value: \$2,608

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Per DEA this seizure went judicial in July 1987.

4. Remarks - (Why assets are still in custody):

Awaiting further administrative/judicial proceedings.

Case #: 86-6899-CIV-ARONOVITZ

Case Title: USA v. 2 Parcels of
Real Property
2835 Hollywood Blvd.

Property Seized: 2835 Hollywood Blvd., Hollywood, Florida

Date Seized: 11/24/86

Appraised Value: \$696,000 on January 15, 1987

1. Monthly Storage/Maintenance Costs:

\$13,539.95 is a total for management fees, appraisal fees, roof repair, and misc. expenses for building upkeep.

2. Total Management Expenses:

See Above.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why Assets are still in Custody):

On 4/5/89 Equitable Sharing request for transferring this property to the Hollywood Police Department was approved by NASAF Headquarters.

Case #: 87-6813

Case Title: USA v. 1979 Porsche 935

Property Seized: 1979 Porsche 935

Date Seized: 01/06/87

Appraised Value: \$60,000.00

1. Monthly Storage/Maintenance Costs:

\$1,060.71 - Appraisal of vehicle

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Vehicle sold at Public Auction on 03/03/89, for \$210,000.00.
Proceeds from auction received on 03/23/89 and deposited in the
Asset Forfeiture Fund.

Case #: 86-8692-CIV-PAINE

Case Title: USA v. \$100,000 U.S. Curre

Property Seized: \$100,000 U.S. Currency

Date Seized: 02/09/87

Appraised Value: \$100,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Summary Judgement in favor of U.S. granted on 11/06/87.

4. Remarks - (Why assets are still in custody):

Summary Judgement granted on 11/06/87; however, it was not received in USMS office until 04/11/89. Money has since been transferred to the Asset Forfeiture Fund.

Case #: 87-0210-CIV-ARONOVITZ

Case Title: USA v. Belle Vista Plz.
Condo WarehouseProperty Seized: Unit 1501A Belle Vista Plaza Warehouse
1631 S. 38 Pl., Hialeah, Florida, Bldg. 15Date Seized: 02/18/87
Forfeited 5/14/87

Appraised Value: \$62,500

1. Monthly Storage/Maintenance Costs:

2. Total Management Expenses:

\$3,703.95 is a total of expenses of this condo warehouse as of 04/11/89. That total includes Condo Association fees, appraisal, locksmiths. No management fees were paid, just fees as stated above.

3. Judicial or Administrative Procedures Pending:

Awaiting an amended final judgment of forfeiture.

4. Remarks - (Why assets are still in custody):

The USMS is unable to go any further on closing this case. A contract was accepted on 12/23/88, but the title to this property is clouded. The U.S. Attorney's Office still needs to file a proof of service and an amended final judgment to proceed further. The attorney for the buyer has been unsuccessful in obtaining the assistance from the U.S. Attorney's Office to clear title for the closing.

Case #: 87-0676-CIV-EPS

Case Title: USA v. Approximately 20
Acres of Agricultural Land

Property Seized: 20 Acres of agricultural land located at S.W. 224th St.

Date Seized: 04/13/87

Appraised Value: \$300,000.00 - November 1, 1988

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

A total of \$1,100.00 has been spent by the U.S. Marshals Office in appraisals - one on 6/24/87 and a recent one on 11/01/88.

3. Judicial or Administrative Procedures Pending:

Amended Default Judgement

4. Remarks - (Why assets are still in custody):

A restraining order was issued by Judge Ed Davis on 01/05/87. Despite the order, there was a Sheriff's execution and sale of property and a deed was issued to J.B.D. Everglades Inc., on November 23, 1988. The U.S. Attorney's Office contacted J.B.D. Everglades, Inc. and advised them of the restraint and furthermore suggested Everglades, Inc. turn over the deed to the government. Everglades, Inc. refused to do so and now there is an action possibly pending against J.B.D.

On 4/12/89, Pat Walsh from Asset Forfeiture had been contacted about the status of this case. He advised that the Assistant Karen Vogel was unavailable, and will be looking into the status upon her return.

Case #: C-87-625-A N/GA

Case Title: USA v. 6809-6845 S.W. 59

Property Seized: 6809-6845 S.W. 59 P1

Date Seized: 04/23/87

Appraised Value: \$395,000, June 23, 1987

1. Monthly Storage/Maintenance Costs:

USMS has received \$20,298.43 in rents to date

2. Total Management Expenses:

\$5,749.26 have been spent on management fees, including appraisals and maintenance.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why Assets are still in Custody):

This property was listed for sale on April 4/8/88 pursuant to a Consent Order of Forfeiture entered on March 18, 1988. Since the date of listing we have not received an acceptable offer to purchase this parcel. A contract on 2/26/89 fell through after title insurance and clearing title were unobtainable. The U.S. Attorney's Office in Atlanta and attorneys for the mortgage holder are working with potential buyers for this property.

Case #: G8-74-0031

Case Title: DEA Administrative Seizure

Property Seized: 200 pesos

Date Seized: 04/29/87

Appraised Value: 0.77

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Abandonment from DEA Asset Forfeiture.

Case #: G8-85-0001

Case Title: DEA Administrative Service

Property Seized: \$5,204.04 U.S. Currency

Date Seized: 04/29/87

Appraised Value: \$5,204.04

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

DEA Administrative proceedings still in progress.

4. Remarks - (Why assets are still in custody):

Awaiting further instructions from DEA.

Case #: G5-86-Z002

Case Title: DEA Administrative Seizure

Property Seized: \$59,752.49 U.S. Currency

Date Seized: 05/19/87

Appraised Value: \$59,752.49

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Forfeiture from DEA.

Case #: Y-87-1203

Case Title: USA v. One 1985 Toyota
Land Cruiser

Property Seized: One Toyota Land Cruiser

Date Seized: 05/27/87

Appraised Value: \$12,000

1. Monthly Storage/Maintenance Costs:

Total Storage Costs: \$690.00
Total Maintenance Costs: \$104.00

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Order of Forfeiture 1/20/88

4. Remarks - (Why Assets are still in Custody):

Released for Official Use in the USMS Southern District of
Florida on 1/27/88.

Case #: 87-1136-CIV-WMH

Case Title: USA v. Isaac Hicks

Property Seized: 6941-43 N.W. 6th Ct., Miami, Florida

Date Seized: 07/07/87

Appraised Value: \$21,000 - 12/10/87

1. Monthly Storage/Maintenance Costs:

\$250.00 had been spent to date on an appraisal.

2. Total Management Expenses:

None to date.

3. Judicial or Administrative Procedures Pending:

Administrative actions known to USMS.

4. Remarks - (Why assets are still in custody):

This property was forfeited to the U.S. on November 20, 1986. The sale of the property fell through after the attorney for the buyer found that the forfeiture proceedings by the U.S. Attorney's Office did not follow a memorandum issued on September 24, 1987, and therefore rendering the title clouded. The U.S. Attorney's Office had been advised of the situation and until this date, the USMS had not received a reply.

Case #: 3460-87-008

Case Title: FBI Administrative Service

Property Seized: 33' Egg Harbor Vessel

Date Seized: 12/07/87

Appraised Value: \$25,000

1. Monthly Storage/Maintenance Costs:

\$230.68 per month for dockage and routine maintenance.

2. Total Management Expenses:

\$3,641.12

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture received 07/28/87.
Vessel sold by G.S.A. on 03/06/89 for \$21,505.20.

4. Remarks - (Why assets are still in custody):

No longer in custody.

Case #: G1-83-0086

Case Title: DEA Administrative Service

Property Seized: \$1,400 U.S. Currency

Date Seized: 07/14/87

Appraised Value: \$1,400

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

Awaiting Declaration of Forfeiture from DEA.

4. Remarks - (Why assets are still in custody):

Awaiting Declaration of Forfeiture.

Case #: 87-1039-CIV-T-13B M/FL Case Title: USA v. One 32-Acre Farm

Property Seized: 256 Tarpon Street, Tavernier, Florida

Date Seized: 09/16/87

Appraised Value: \$142,000, March 8, 1988

1. Monthly Storage/Maintenance Costs:

\$566.91 had been spent on locksmiths, appraisals and maintenance.
\$2,844.43 were received from rents collected.

2. Total Management Expenses:

\$750.00 expended on management fees.

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

At this time a contract has been accepted and the USMS and buyer are awaiting to set a closing date. The title has been cleared by copy of Quiet Title action.

Case #: 87-2013-CIV-EBD

Case Title: USA v. 1986 Suzuki
Convertible Jeep

Property Seized: 1986 Suzuki Samurai JX, VIN # JS3JCS1CXG4125481

Date Seized: 12/08/87

Appraised Value: \$6,500.00

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage.

2. Total Management Expenses:

To date (04/11/89) \$1,347.50

3. Judicial or Administrative Procedures Pending:

None. Summary Judgement of Forfeiture entered and granted to U.S.
dated 02/23/89.

4. Remarks - (Why assets are still in custody):

Judgement rendered 02/23/89; received in USMS office 04/11/89.
Vehicle will be turned over to DEA for official use as soon as
an official date is rendered.

Case #: 01-86-0054

Case Title: DEA Administrative Service

Property Seized: 1983 Toyota Corolla

Date Seized: 12/21/87

Appraised Value: \$5,625

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage plus \$75 fee for moving vehicle.

2. Total Management Expenses:

To date (04/11/89) \$1,458.25

3. Judicial or Administrative Procedures Pending:

DEA Administrative Forfeiture Proceedings are still pending.

4. Remarks - (Why assets are still in custody):

Case is pending.

Case #: G5-87-0021

Case Title: DEA Administrative Service

Property Seized: 1981 Foreche

Date Seized: 01/05/88

Appraised Value: \$20,000

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage fee plus \$75 towing fee.

2. Total Management Expenses:

As of 04/10/89 \$1,359.25.

3. Judicial or Administrative Procedures Pending:

On 10/28/88, the defendant agreed to forfeit the vehicle to the government. On 11/05/88, the DEA Asset Forfeiture Office was advised of same and advised to forward the Declaration of Forfeiture. As of 04/10/89, it has not been received in the USMS office.

4. Remarks - (Why assets are still in custody):

See Above.

Case #: 122-87-2006

Case Title: USA v. 1984 27' Forr
Ski Boat

Property Seized: 1984 - 27' Formula Ski Boat

Date Seized: 01/07/88

Appraised Value: \$24,000

1. Monthly Storage/Maintenance Costs:

\$1,242.00 storage fess.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

A Petition for Remission has been filed by Mr. Hayamy's attorney in the Southern District of Florida on 03/09/88.

4. Remarks - (Why assets are still in custody):

A Mr. Jimmy Hayamy purchased a ski boat from a Richard Stover without performing a background investigation on the title of the boat. Apparently the ski boat was used for illegal drug activities by Mr. Stover previously. The DEA seized the boat from Mr. Hayamy and his attorney has filed a Petition for Remission with the Judicial District of Southern Florida. Because of pending administrative action this property has not yet been disposed of.

Case #: 3460-87-006

Case Title: FBI Administrative Seizure

Property Seized: 1979 BMW

Date Seized: 01/14/88

Appraised Value: \$5,250

1. Monthly Storage/Maintenance Costs:

\$2.75 a day storage plus \$124 towing fees.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture dated 08/17/87.

4. Remarks - (Why assets are still in custody):

No longer in custody. Turned over to Salt Lake City P.D. on 10/11/87 per Equitable Sharing.

Case #: CJ-86-2002

Case Title: USA v. GTE Mobile Net
Telephone and Charger

Property Seized: GTE Mobile net telephone and charger

Date Seized: 01/19/88

Appraised Value: \$3,800.00 Appraisal - 1/19/88
\$1,500.00 Appraisal - 1/20/88

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None, Declaration of Forfeiture 02/13/87.

4. Remarks - (Why assets are still in custody):

Placed in Official Use by USMS Southern District of Florida on
01/20/88.

Case #: GS-88-0014

Case Title: DEA Administrative Seizure

Property Seized: Gold chain

Date Seized: 02/08/88

Appraised Value: \$2,000

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None. Declaration of Forfeiture dated 06/16/88.

4. Remarks - (Why assets are still in custody):

This gold chain as well as the other jewelry in the same seizure was shipped to NASAP, Chicago. The jewelry will be sold at auction on April 16, 17, 18, 1989.

Case #: G1-87-0234

Case Title: DEA Administrative Service

Property Seized: 1977 Cargo Container

Date Seized: 03/17/87

Appraised Value: \$2,000.00

1. Monthly Storage/Maintenance Costs:

\$418.00 to hoist container onto a flat-bed trailer to move for disposal by GSA.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

The USMS received a Declaration of Forfeiture on March 24, 1988. The container had been transferred to G.S.A. for sale and had not had a purchaser since it's been up for sale.

Case #: G1-87-0364

FBI Administrative Case No.

Case Title: USA v. 1966 Cessna Twin
Engine Aircraft

Property Seized: 1966 Cessna Twin Engine Aircraft

Date Seized: 03/29/88 - Date forfeited 7/19/88

Appraised Value: \$40,000.00

1. Monthly Storage/Maintenance Costs:

\$1,345 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

Note

3. Judicial or Administrative Procedures Pending:

Non •

4. Remarks - (Why assets are still in custody):

Currently, this aircraft is waiting to be sold. No official auction date had been set as per Bob Lang, (717) 944-1787 of Stambough's Air Service. This aircraft was forfeited on 7/19/88, and transferred to Stambough's Air Service for auction.

Case #: G6-87-0011
DEA Administrative

Case Title: USA v. 1970 Cessna 172-H

Property Seized: 1970 Cessna 172-H

Date Seized: 03/29/88 - Forfeited 6/16/88

Appraised Value: \$9,000

1. Monthly Storage/Maintenance Costs:

\$1,327 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

Currently, this aircraft is waiting to be sold. No official auction date had been set as per Bob Lang, (717) 944-1787 of Stambough's Air Service. This aircraft was forfeited on 6/24/88, and transferred to Stambough's Air Service for auction.

Case #: G1-85-0284
DEA Administrative Case No.

Case Title: USA v. 1981 Honda CB
400T Hawk M/C

Property Seized: 1981 Honda CB 400T Hawk Motorcycle

Date Seized: 04/25/88

Appraised Value: \$300.000 on 4/25/88

1. Monthly Storage/Maintenance Costs:

None

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This motorcycle had been forfeited to the U.S. on 01/16/86. The USMS had received the motorcycle from DEA on 4/25/88. The State Department became involved when the Haitian Government expressed an interest in using the motorcycle for official use. To this date, the USMS has not received any word whether or not the State Department had plans to proceed with the transaction.

CASE #: 61-86-0463 (DEA)

CASE TITLE: DEA ADMINISTRATIVE
SEIZURE

PROPERTY SEIZED: 1 CERAMIC VASE & ASSORTED JEWELRY

DATE SEIZED: 06/28/89

APPRAISED VALUE: \$3,570.00

1. MONTHLY STORAGE/MAINTENANCE COSTS:

NONE

2. TOTAL MANAGEMENT EXPENSES:

NONE

3. JUDICIAL OR ADMINISTRATIVE PROCEDURES PENDING:

ADMINISTRATIVELY FORFEITED BY DEA ON 07/07/87.

4. REMARKS (WHY ASSETS ARE STILL IN CUSTODY):

SHIPPED TO NASAF, CHICAGO. ITEMS WILL BE SOLD AT AUCTION ON
APRIL 16, 17, 18 1989.

Case #: GPG1-85-8001
DEA Administrative

Case Title: USA v. 1964 Cessna 172-F

Property Seized: 1964 Cessna 172-F

Date Seized: 08/18/86 - Forfeited 7/23/86

Appraised Value: \$5,000

1. Monthly Storage/Maintenance Costs:

\$130.00 had been spent on storage fees and aircraft title services.

2. Total Management Expenses:

None

3. Judicial or Administrative Procedures Pending:

None

4. Remarks - (Why assets are still in custody):

This aircraft is no longer in the custody of the USMS. Pursuant to a sale on 02/28/89, this aircraft was sold for \$3,333.33. The funds from the sale have since been deposited in the Asset Forfeiture Fund.





